

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-v-

Case No. 10-20123

D-1 DAVID BRIAN STONE, a.k.a. "RD,"  
a.k.a. "Joe Stonewall," a.k.a.  
"Captain Hutaree,"

D-2 DAVID BRIAN STONE, JR., a.k.a.  
"Junior,"

D-3 JOSHUA MATTHEW STONE, a.k.a. "Josh,"  
D-4 TINA MAE STONE,

D-5 JOSHUA JOHN CLOUGH, a.k.a. "Azzurlin,"  
a.k.a. "Az," a.k.a. "Mouse," a.k.a.  
"Jason Z. Charles,"

D-6 MICHAEL DAVID MEEKS, a.k.a. "Mikey,"

D-7 THOMAS WILLIAM PIATEK,

D-8 KRISTOPHER T. SICKLES, a.k.a.  
"Pale Horse,"

D-9 JACOB J. WARD, a.k.a. "Jake,"  
a.k.a. "Nate," a.k.a. "Guhighllo,"

Defendants./

**DETENTION HEARINGS**

**BEFORE HON. MAGISTRATE JUDGE DONALD A. SCHEER**

United States Magistrate Judge  
Theodore Levin U.S. Courthouse  
231 West Lafayette  
Detroit, Michigan 48226

**(Wednesday, March 31, 2010)**

APPEARANCES: RONALD W. WATERSTREET, ESQUIRE  
Appearing on behalf of the  
Government.

WILLIAM W. SWOR, ESQUIRE  
Appearing on behalf of Defendant  
David Brian Stone.

RICHARD M. HELFRICK, ESQUIRE  
Appearing on behalf of Defendant  
David Brian Stone, Jr.

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JAMES C. THOMAS, ESQUIRE  
Appearing on behalf of Defendant  
Joshua Matthew Stone.

MICHAEL A. RATAJ, ESQUIRE  
Appearing on behalf of Defendant Tina  
Mae Stone.

RANDALL C. ROBERTS, ESQUIRE  
Appearing on behalf of Defendant  
Joshua John Clough.

HENRY M. SCHARG, ESQUIRE  
Appearing on behalf of Defendant  
Kristopher T. Sickles.

CHRISTOPHER N. SEIKALY, ESQUIRE  
Appearing on behalf of Defendant  
Jacob J. Ward.

MARK A. SATAWA, ESQUIRE  
LISA B. KIRSCH SATAWA, ESQUIRE  
Appearing on behalf of Defendant  
David Meeks.

COURT RECORDER: LOLITA GRANGER

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231 W. Lafayette  
Detroit, Michigan 48226

*(TRANSCRIPT PRODUCED FROM DIGITAL VOICE RECORDING;  
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**TABLE OF CONTENTS**

**PAGE:**

**Proceedings - Wednesday, March 31, 2010**

Arraignment of Defendant David Brian Stone.....	4
Proffer by the government.....	5

**DETENTION HEARINGS**

**DEFENDANTS:**

David Brian Stone.....	48
David Brian Stone, Jr.....	59
Joshua Matthew Stone.....	66
Tina Mae Stone.....	73
Joshua John Clough.....	79
Kristopher T. Sickles.....	91

**EXHIBITS:**

**RECEIVED:**

Government Exhibit No. 5.....	38
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*U.S.A. v. Stone, et al.*

Detroit, Michigan

Wednesday, March 31, 2010

At about 1:54 p.m.

\* \* \*

DEPUTY COURT CLERK: -- the Honorable  
Donald A. Scheer presiding. You may be seated.

The Court calls case number 10-20123,  
United States of America versus David Brian Stone.

MR. WATERSTREET: Good afternoon, again,  
Your Honor. Ronald Waterstreet appearing on behalf of  
the United States.

THE COURT: Thank you.

MR. SWOR: Your Honor, William Swor on  
behalf of and with Mr. David Brian Stone.

THE COURT: Thank you.

MR. SWOR: Your Honor, we have received  
the indictment. We have reviewed the indictment with Mr.  
Stone. We waive the reading of the indictment in open  
court and stand mute to the charges contained in the  
indictment.

We've executed the written acknowledgment  
of indictment and filed it with the Court.

THE COURT: Thank you.

The Court has received the defendant's  
signed acknowledgment of indictment. And the defendant

*U.S.A. v. Stone, et al.*

1       having waived the formal reading of the charges and  
2       standing mute, a plea of not guilty is entered in his  
3       behalf.

4               And, Mr. Swor, Mr. Stone is prepared to  
5       address the issue of bond today?

6               MR. SWOR: We are prepared to go forward  
7       with the -- I have a funny feeling that the government's  
8       not going to agree to unsecured release, so we're ready  
9       to go forward.

10              THE COURT: Very well, sir.

11              Are all other counsel prepared to proceed?

12              UNIDENTIFIED SPEAKER: Yes.

13              UNIDENTIFIED SPEAKER: Yes.

14              UNIDENTIFIED SPEAKER: Yes, Judge.

15              UNIDENTIFIED SPEAKER: Yes, Your Honor.

16              UNIDENTIFIED SPEAKER: Yes, Your Honor.

17              UNIDENTIFIED SPEAKER: Yes, Your Honor.

18              THE COURT: Mr. Waterstreet, you may  
19       proceed.

20              MR. WATERSTREET: Thank you, Your Honor.  
21       May we be seated?

22              THE COURT: Yes, please.

23              MR. WATERSTREET: Your Honor, what I would  
24       first like to do is draw the Court's attention to the  
25       actual charges that each of the defendants have facing

*U.S.A. v. Stone, et al.*

1       against them at this point as a result of a return of a  
2       grand jury indictment.

3               Every one of the defendants in court today  
4       is charged with seditious conspiracy and attempted use of  
5       a weapon of mass destruction.

6               David Stone, Sr., and David Stone, Jr.,  
7       are charged with teaching, demonstrating use of explosive  
8       materials.

9               And all the defendants are charged with at  
10      least one count of carrying, using or possession of a  
11      firearm in relation to a crime of violence.

12              As a result of those charges, the United  
13      States will be seeking their detention based upon risk of  
14      flight and a danger to the community.

15              Under 3142(e)(3), and due to the nature of  
16      the charges that are pending against all the defendants,  
17      there is a presumption that arises that there are no  
18      conditions nor combination of conditions which will  
19      assure their appearance or to ensure the safety of the  
20      community.

21              The Court need only find that there is  
22      probable cause to believe the listed crimes were  
23      committed. And I submit to the Court that by a return of  
24      a grand jury indictment, which must be based upon  
25      probable cause, that has been met.

*U.S.A. v. Stone, et al.*

1           And the second thing is they have been  
2 charged with one of the listed offenses. One of the  
3 listed offenses under sub-section (b) is a 924(c) count  
4 which all the defendants are facing, as well as under  
5 sub-section (c), one of the listed offenses under  
6 2232(b)(g)(5)(B) refers to 18 U.S.C. 2332(a), which is  
7 relating to the use of a weapon of mass destruction,  
8 which applies to all defendants.

9           So under two separate charges, each of the  
10 defendants is presumed to have no conditions or  
11 combination of conditions that would ensure their  
12 appearance and ensure the safety of the community.

13           Your Honor, as I mentioned earlier, what  
14 the government intends to do is to provide general  
15 information about the overall conspiracy, general  
16 information concerning the various roles that people  
17 played in that conspiracy.

18           And then, as the Court is aware, we then  
19 intend to go through each defendant separately as to  
20 different reasons why they pose a danger to the community  
21 and are a risk of flight.

22           THE COURT: Very well.

23           MR. WATERSTREET: Your Honor, first of  
24 all, I would like to start off and say what this case is  
25 not about. It's not about a religious group and it's not

*U.S.A. v. Stone, et al.*

1       about the militia.

2               But it's about a group of like-minded  
3       people who decided to oppose by force the authority of  
4       the United States by using violence and weapons.

5               And I just want to digress a moment here,  
6       Your Honor, and kind of explain that this case does not  
7       appear in a vacuum but comes about as a result of some  
8       beliefs that the members of this conspiracy share.

9               And one of the beliefs they share is that  
10       the New World Order, who they refer to as the "elitist in  
11       charge," which is a powerful and secretive elitist group  
12       with a globalist agenda that seek to have one government  
13       and to supplant the government of the United States, is  
14       working with the U.S. government.

15               And the foot soldiers in that regard are  
16       people that they refer to as the "Brotherhood," their  
17       enemy. And the Brotherhood has been defined as any  
18       federal, state, or local law enforcement officer.

19               The hierarchy of this group is that a  
20       David Stone, Sr., whose nickname is "RD," which comes  
21       from the rank structure that he has created by the  
22       Hutaree as Radock, his initials being RD, is the leader  
23       of this organization.

24               His son, Josh Stone, is one of the squad  
25       leaders of this organization.



*U.S.A. v. Stone, et al.*

1                   His son, David, Jr., is a person who  
2                   during training is oftentimes the op force or the  
3                   opposition force when they go for training. And he's  
4                   responsible for the detonation of various explosives that  
5                   are used in their training.

6                   Tina Stone, Dave Stone's wife, is in  
7                   charge of communications between the various members of  
8                   Hutaree and other groups that they believe are affiliated  
9                   with them.

10                  Kristopher Sickles is the self-identified  
11                  leader of the Ohio Militia who would travel from Ohio to  
12                  train with the Hutaree and would oftentimes help suggest  
13                  and critique the training techniques that the Hutaree  
14                  would engage in.

15                  Joshua Clough --

16                  MR. ROBERTS: Your Honor, if counsel --  
17                  excuse me. If I may interrupt?

18                  At this point in time I'm objecting.  
19                  Unless I understood incorrectly, if the government  
20                  counsel is proceeding by way of proffer --

21                  THE COURT: You should --

22                  MR. ROBERTS: Sorry. This is Randall  
23                  Roberts on behalf of Mr. Clough.

24                  If government counsel, as I understand it,  
25                  is proceeding by way of proffer, I'm objecting to the

*U.S.A. v. Stone, et al.*

1 proffer.

2 I'm objecting -- I understand what the  
3 rules allow. But formally, I'm objecting to the proffer  
4 and I'm objecting to any hearsay references of double,  
5 triple hearsay that may be coming in based upon review of  
6 whatever materials counsel may have reviewed, without the  
7 benefit of us being able to test in the crucible of this  
8 arena the verification of the various witnesses and the  
9 sundry information that they're providing in this forum.

10 THE COURT: Mr. Waterstreet?

11 MR. SCHARG: I concur with -- on behalf of  
12 Mr. Sickles. I concur that we should have more than a  
13 proffer. We should have a case agent or someone testify  
14 because there's no other way to dispute some of the  
15 allegations that are starting to develop, especially  
16 regarding my client. There is no way to challenge his  
17 proffer.

18 UNIDENTIFIED SPEAKER: And I join that  
19 objection, Your Honor.

20 MR. SEIKALY: I would join that objection  
21 on behalf of Mr. Ward.

22 MR. RATAJ: On behalf of Mrs. Stone, same  
23 objection, Your Honor.

24 And all I've heard today is that my  
25 client's in charge of communications. Well, we know that

*U.S.A. v. Stone, et al.*

1 from even reading the papers that they have a Facebook  
2 page. So what?

3 So -- I mean, I object to this whole  
4 proceeding. There's nothing I've heard that would  
5 suggest that my client is a danger to the community.

6 THE COURT: Anyone who does not object?

7 MR. THOMAS: Well, I would acknowledge,  
8 Judge, that we spoke about what was going to happen in  
9 chambers, but I think that in light of the uniformity,  
10 everybody is objecting, you've got a consensus here.

11 THE COURT: I will accept the statements  
12 as made thus far as in the nature of an opening  
13 statement.

14 Should specific information be presented  
15 to the Court, at least some basis for that information  
16 should be acknowledged in the presentation.

17 MR. WATERSTREET: I will, Your Honor.

18 THE COURT: The objections are overruled  
19 at this time.

20 MR. WATERSTREET: I believe I was talking  
21 about Mr. Clough at the time, Your Honor.

22 He -- his job is an information officer.  
23 He is an individual who is responsible for maintaining  
24 the web site of -- the Hutaree web site, creating the  
25 training videos, in charge of the recruitment videos, as

*U.S.A. v. Stone, et al.*

1 well as responsible for explosives.

2 One defendant who is not here today is Mr.  
3 Piatek. He has had his appearance in the Northern  
4 District of Indiana. He, as -- along with Mr. Meeks,  
5 we'll refer to as the heavy gunners of this organization  
6 who were responsible for laying down heavy fire when --  
7 when they incurred the -- the enemy.

8 And Jacob Ward is an active member of the  
9 Hutaree. He is a committed member and follower of this  
10 group. He is also a member of the Ohio militia, and  
11 travels oftentimes with Kris Sickles for training up here  
12 in Michigan with the Hutaree.

13 Your Honor, what I intended to do is go  
14 through chronologically to give this Court a little idea  
15 what this group has been involved in over a period of  
16 time. And I want to start back in December of 2008.

17 In December of 2008, during an ATF  
18 investigation of a local federal firearms licensee in the  
19 Southeast Michigan area, Joshua Clough posted on a web  
20 site an indication that the Hutaree members were ready to  
21 go to war over the fact that the ATF was asking for  
22 paperwork from a local federal firearms dealer.

23 The -- which was posted on AWRM, which  
24 stands for a "A Well-Regulated Militia," on December 8th,  
25 2008, Josh Clough using the Hutaree given name of

*U.S.A. v. Stone, et al.*

1 Azzurlin, A-z-z-u-r-l-i-n, posted the following:

2 "ATF agents are at our local FFL  
3 today looking for all the paperwork  
4 specifically relating to our  
5 commander located in SE Michigan,"  
6 which I assume is Southeast Michigan,

7 "We have and will return fire. The  
8 question is, will you?"

9 And then signs it,

10 "Hutaree.com."

11 Additionally, on that same day, David Stone sent an  
12 e-mail out to various members of the Hutaree, and under  
13 the name of Joe Stonewall on the -- from an e-mail at  
14 Hutaree@yahoo.com, and the e-mail was titled "Flash flash  
15 ATF enforcers." The content of the e-mail read,

16 "Okay. Here we go. Looks like ATF  
17 enforcers are looking for a reason to  
18 start a fire fight and we will answer  
19 the call. All Hutaree members  
20 contact me immediately."

21 Approximately one month later, the son of this federal  
22 firearms licensee was arrested. And at that time David  
23 Stone, "RD" and his son, Josh, went and volunteered the  
24 services of the Hutaree to attempt to break that person  
25 out of prison. Those offers were rebuffed.

*U.S.A. v. Stone, et al.*

1                   And I want to move to now June, early June  
2                   of 2009, in which there was a planned training to fight  
3                   the U.S. government. And during that planned training,  
4                   RD indicated that the police would -- the law enforcement  
5                   would be the first to appear, and that the blue helmets,  
6                   which he referred to -- which as a side note, blue  
7                   helmets are typically UN forces peacekeepers around the  
8                   world, who he claims to be part of the New World Order,  
9                   will come in.

10                  And if I might just stop for a moment  
11                  here, on You-Tube there's a publicly-available video  
12                  which was created by the Hutaree and which depicts an  
13                  individual up in a tree stand who spots somebody walking  
14                  along in the forest.

15                  And if you look closely you'll notice that  
16                  one of the people who are being spotted in the forest is  
17                  wearing a blue helmet. The person on the tree stand  
18                  jumps down and is met with other members purportedly of  
19                  the Hutaree.

20                  Next, the video focuses in on some type of  
21                  trip-wire device. And I want to finish this story first  
22                  before I digress a little more about the trip-wire  
23                  device.

24                  In that video, it's a close-up of a  
25                  clothes pin with orange wires connected to it, which has

*U.S.A. v. Stone, et al.*

1 a trip-wire connected -- that's holding the two ends of  
2 the clothes pin apart. The idea is that when the item  
3 that is holding those two pieces of the clothes pin apart  
4 are allowed to touch each other and complete the  
5 electrical circuit, an explosive will detonate.

6 The video goes on to show an individual  
7 who is purportedly a member of the New World Order,  
8 walking down the path and tripping the trip-wire,  
9 followed quickly by an explosion and showing a body prone  
10 on the ground apparently to indicate that the person has  
11 been killed.

12 Later then, the video flashes to two  
13 individuals walking through a field. Again, it's -- if  
14 you look closely, one of the individuals is wearing a  
15 blue helmet. And as they're walking across the field,  
16 the video pans back and you see two people hiding in the  
17 brush who purportedly fire upon these two people walking  
18 across the field.

19 And then shortly thereafter, there's a cut  
20 to the UN flag flying atop a flagpole which is then set  
21 ablaze. And then the members of the Hutaree who are  
22 identified by the patches that they wear on their left  
23 shoulder, come running in, circle around the flagpole,  
24 and rather than raising the U.S. flag, they raise the  
25 Hutaree flag.

*U.S.A. v. Stone, et al.*

1                   And the reason I said I didn't want to  
2                   digress too far when I was talking about the improvised  
3                   trip-wire device, is that on November 15th, 2008, Josh  
4                   Clough and David Stone, who was then being identified by  
5                   the name of Captain Hutaree, were on the Liberty Tree  
6                   Radio webcast and Josh Clough was providing a detailed  
7                   explanation of what he referred to as a way for a -- I  
8                   want to make sure I use the right term here -- he -- I'm  
9                   not finding my place right now, Your Honor.

10                  But what -- he described it as a defensive  
11                  system by which he would be able to identify whether the  
12                  perimeter had been breached and suggested putting  
13                  together a trip-wire system, and then went on to explain  
14                  in great detail the precise type of trip-wire system  
15                  that's depicted in the video with using the clothes pin,  
16                  using the wires, the wires coming together closing the  
17                  circuit, and then, therefore, indicating that somebody  
18                  has breached the perimeter.

19                  I now want to move to June 13th, 2009,  
20                  which was a training day of the Hutaree out at 6021 Tomer  
21                  Road in Clayton, Michigan, which is the residence of  
22                  David Stone, Tina Stone and Josh Stone.

23                  Present during that time were David Stone,  
24                  David Stone, Jr., Josh Stone, Josh Clough, Michael Meeks,  
25                  Thomas Piatek, Jacob Ward, and others. And part of the



*U.S.A. v. Stone, et al.*

1 training that day was for the two different squads -- and  
2 I have to digress a moment here.

3 There were two different squads which  
4 David Stone wanted to have available to him. And he  
5 referred to the two different squads by a made-up name  
6 that he created as part of his language of the Hutaree.  
7 And he was going to be the leader of one of those squads,  
8 and his son, Josh Stone, was the leader of the other  
9 squad.

10 And that day, David Stone, Jr., would be  
11 the opposition force as part of the training. And the  
12 job of the squad's training that day was for them to  
13 avoid trip-wires and also to find the opposition force.

14 It was during that training that various  
15 explosives were demonstrated and explained. For example,  
16 one of the explosives that was set off, an IED, which is  
17 improvised explosive device, was what David Stone  
18 referred to as a Bouncing Betty. And he went on to  
19 explain what a Bouncing Betty was and how it would be  
20 built and how it was built.

21 And unlike an anti-personnel mine in which  
22 one individual would step on it and suffer the  
23 consequences of that, a Bouncing Betty is something that  
24 was first introduced in World War II as -- by the  
25 Germans. It was called an S mine.

*U.S.A. v. Stone, et al.*

1                   And rather than taking out one individual,  
2                   the way this bomb was built is that if a trip-wire was  
3                   used or was command detonated, that means somebody set it  
4                   off watching somebody go by, the Bouncing Betty would  
5                   first -- have a first explosion, and in this case, David  
6                   Stone's, the first explosion was used in a shotgun shell,  
7                   which would cause the projectile and all the materials,  
8                   the shrapnel in the projectile, to come up about waist  
9                   high.

10                   And then at that time a second explosion  
11                   would detonate, causing shrapnel to be sent out 360  
12                   degrees, that way increasing the effectiveness and the  
13                   lethality of the weapon to not only seek to harm the  
14                   person that tripped it, but also the rest of the people  
15                   that were with him.

16                   During this training, they set off several  
17                   non-fragmentary explosives and explained that all we need  
18                   to do is either add shrapnel or ball bearings to these  
19                   things and we could have improvised hand grenades or  
20                   improvised explosives.

21                   Also during that day he was able to  
22                   display an assembled pipe bomb which lacked the explosive  
23                   materials.

24                   And it was also during this meeting that  
25                   Michael Meeks was part of a discussion concerning the

*U.S.A. v. Stone, et al.*

1 government. And during that discussion of the  
2 government, he indicated that it was his belief that we  
3 should get rid of the entire judicial system and that  
4 everybody who was involved needed to die.

5 He also went on to opine that people like  
6 Senator Kennedy, the former Senator Edward Kennedy,  
7 thought that they were different from everybody else.  
8 But all he had to do was just wait and he would find out  
9 he would be able to bleed like everybody else.

10 And he also talked about a common  
11 reoccurring theme about taking on the Brotherhood by  
12 planning to cap a member of law enforcement and take  
13 their weapon.

14 I want to move ahead to July 25th, 2009 in  
15 which David Stone had a barbecue at the Tomer Road  
16 address.

17 Before I go on, there's one other thing I  
18 wanted to mention about some of the items that were  
19 observed in David Stone's home. In David Stone's home,  
20 in addition to the pipe bomb, he had a large roll of  
21 green hobby fuse, a large pile of electric matches. An  
22 electric match is a device that an external electrical  
23 current can be placed through it. It will cause -- it  
24 would ignite and then it would cause a combustion of any  
25 explosive material.

*U.S.A. v. Stone, et al.*

1           A large box full of orange electrical  
2           wires, and I submit to the Court that if it does take a  
3           look at the You-Tube video which I discussed earlier, the  
4           type of wires that were used to build the trip-wire  
5           device were orange wires.

6           And approximately 20 cardboard tubes that  
7           would be used for IED construction, as well as  
8           approximately five or six large green ammo cans. And it  
9           was this type of cardboard tubes that were being used as  
10          part of the detonation explanation, as well as the ones  
11          that would simply just have to add the shrapnel to become  
12          hand grenades.

13          On July 25th, 2009 at a barbecue at Tomer  
14          in which David Stone, David Stone, Jr., Joshua Stone,  
15          Josh Clough, Michael Meeks, Thomas Piatek, Jacob Ward and  
16          others were present, David Stone began to explain that he  
17          believed that the war was approaching and therefore they  
18          needed to train harder.

19          And what he wanted to have was two  
20          nine-man squads and four rally points from which they  
21          could go to, one of those rally points being the Tomer  
22          Road address. And he also indicated that he wanted to be  
23          able to own his own country.

24          On August 13th, 2009, there was a  
25          situation in which an undercover law enforcement officer

*U.S.A. v. Stone, et al.*

1 was present. And this undercover law enforcement officer  
2 had been involved in a number of the trainings that had  
3 taken place up to that date with the Hutaree. And he had  
4 been present during the demonstration of the various  
5 explosive devices by David Stone and David Stone, Jr.

6 And during the August 13th training, David  
7 Stone defined the enemy as all federal, state and local  
8 law enforcement officers, who he referred to as the  
9 Brotherhood. And he believed that -- well, he -- and I'm  
10 sorry. During this meeting, he discussed the goals and  
11 the tactics that the Hutaree would use in their combined  
12 effort against the brotherhood.

13 One of the goals was to reduce the numbers  
14 of the Brotherhood, which he estimated at 650,000. And  
15 he believed that by bringing on -- by engaging in various  
16 tactics, which he went into later, he thought that quite  
17 quickly he would be able to reduce that number from 650  
18 to 150,000 law enforcement officers, because they would  
19 have to -- law enforcement officers would have to weigh  
20 in their mind whether "I want a paycheck or do I want to  
21 go home to my family?"

22 He also -- one of the goals was to make  
23 the law enforcement cower or retreat to the cities so  
24 that he would be free in the country to run and do what  
25 he wished.

*U.S.A. v. Stone, et al.*

1                   And his third goal was to diminish the  
2                   numbers of the Brotherhood. Some of the tactics he  
3                   explained on that day was, one, to burn the law  
4                   enforcement or the Brotherhood out of their homes. And  
5                   as they fled their homes that were on fire, to then lob  
6                   bullets at all of those who exited.

7                   He indicated that the women and children,  
8                   the wives of law enforcement, the wives of the  
9                   Brotherhood and the children of the Brotherhood were  
10                  equal targets, because in his mind they were no better  
11                  than the law enforcement officers.

12                  One of the tactics -- one of the other  
13                  tactics as pointed out in the indictment, was to kill one  
14                  law enforcement officer, which he knew would bring law  
15                  enforcement from all over the nation to attend the  
16                  funeral, wait three days after the initial killing, and  
17                  then begin to attack the funeral procession.

18                  And even he talked about -- even after law  
19                  enforcement had, in his term, cowered and retreated to  
20                  the cities, there was a plan to make false 911 calls to  
21                  have the police officers come out and be subjected to  
22                  being ambushed.

23                  Now, after the Hutaree had shown their  
24                  capability with explosives, as I indicated before with  
25                  the bouncing Betties and the trip-wires, the undercover

*U.S.A. v. Stone, et al.*

1 officer wanted to demonstrate his familiarity with  
2 explosives as well -- and frankly, Your Honor, the  
3 purpose of doing this was to convince David Stone that  
4 the undercover agent had the capability of making  
5 whatever explosives David Stone wanted.

6 And for one reason, one reason alone.  
7 This way the United States would know what explosives  
8 were being made and to ensure the safety of the community  
9 that David Stone wasn't going off making his own  
10 explosives.

11 And as a result of that he demonstrated an  
12 explosive. After the demonstration, RD, David Stone,  
13 instructed various modifications to be made to the  
14 explosive in order to increase its damage capability.  
15 And he indicated that he wanted a particular type of  
16 explosive to be made, a shape charge, which is a --  
17 referred to as an EFP, explosively formed projectile.

18 And he wanted a type of explosive that  
19 would be able to penetrate armor. And he discussed at  
20 that time using street signs or road signs to be cut into  
21 disks to be put together with different explosive  
22 materials, which would then -- that disk would cause a  
23 explosively formed projectile to be created, which would  
24 be able to penetrate armor. And this was in August of  
25 2009.

*U.S.A. v. Stone, et al.*

1                   On August 22nd, of 2009, there was another  
2                   training at the Tomer Road address, which were present  
3                   were David Brian Stone, David Stone, Jr., Joshua Stone,  
4                   Tina Stone, Josh Clough, Michael Meeks, Thomas Piatek,  
5                   Kristopher Sickles and Jacob Ward. Let me make sure I've  
6                   got that right. Yes.

7                   And during this training a group  
8                   photograph was taken of all the various members of the  
9                   Hutaree who were part of the training for in patrols and  
10                  trip-wire detection. And that photograph was eventually  
11                  posted on the Hutaree web site, and I believe that is  
12                  Government's Proposed Exhibit Number One that I have  
13                  provided to counsel.

14                  I want to present the original to the  
15                  Court. I gave the Court a copy already, but for the  
16                  benefit of the Court, the various people involved in that  
17                  training that day were identified.

18                  Starting on the left-hand side, the second  
19                  person in is Michael Meeks, next to him is Josh Clough,  
20                  David Stone, and then there's another individual, and  
21                  then the shorter individual, Tina Stone, and then there's  
22                  another individual. Then there's David Stone, Jr.,  
23                  another individual, then there's Jacob Ward. And then in  
24                  the front row is Thomas Piatek, Joshua Stone, another  
25                  individual, and Kristopher Sickles.



*U.S.A. v. Stone, et al.*

1                   During this meeting, after the meeting of  
2                   the 15th in which David Stone believed the undercover  
3                   agent had the capability of making explosives, and now  
4                   that he had his two nine-man squads, he gave a motivation  
5                   speech and called upon the group, collective group, to  
6                   communicate better. And then began training on trip-wire  
7                   use against the enemy.

8                   During this training, the undercover  
9                   indicated that following the directions of David Stone,  
10                  he would be able to build the bomb, the EFP, that David  
11                  Stone wanted to build. And based upon his understanding  
12                  of the amount of the explosive they wanted to be used, it  
13                  would be able to go through a three-quarter inch plate of  
14                  steel.

15                  And Stone acknowledged that this would be  
16                  able to easily go through a police car, because that's  
17                  who we would face first.

18                  On August 27th, 2009, that shape charge  
19                  was demonstrated, in which a one-inch hole was placed in  
20                  a three-quarter inch plate of steel. David Stone,  
21                  apparently pleased with the result, indicated that they  
22                  could use this on a convoy and wanted as many as he could  
23                  get at that time.

24                  On September 13th, 2009, David Stone  
25                  indicated that it was his belief at this point that all

*U.S.A. v. Stone, et al.*

1 his Hutaree members could kill.

2 And he also began to outline his plan to  
3 take over four or five counties in the State of Michigan,  
4 and which, after taking over the counties, he would then  
5 have the enemy come to him. And he wanted to link  
6 Washtenaw, Hillsdale and Lenawee Counties as to an area  
7 that he would control.

8 On November 7th, 2009, the Hutaree went to  
9 a new training location, which was to be a rally, another  
10 rally point for the Hutaree. Present during that  
11 training were Defendant Number One, David Stone;  
12 Defendant Number Three, Joshua Stone; Defendant Number  
13 Five, Joshua Clough; Defendant Number Six, Michael Meeks;  
14 Defendant Number Seven, Thomas Piatek; Defendant Number  
15 Eight, Kristopher Sickles; and Defendant Number Nine,  
16 Jacob Ward.

17 At this particular rally point, various  
18 holes had been dug for fighting positions and to bury  
19 supplies. David Stone indicated that he wanted to be  
20 able to bury food, weapons and medical supplies so that  
21 in the event they were attacked, this would be one of the  
22 rally points that they would be able to go to.

23 And it was during also this training that  
24 Kristopher Sickles showed up wearing his ghillie suit.  
25 And it's a type of camouflage clothes designed to

*U.S.A. v. Stone, et al.*

1 resemble heavy foliage. And typically it's like a net or  
2 a cloth garment that's covered with loose strips of cloth  
3 or twine and sometimes even made to look like trees or  
4 leaves to help them blend into the background.

5 The reason why this rally point became  
6 important is -- and I'm going to jump forward a little  
7 bit in time, and I'll come back to it a little bit later,  
8 this was the rally point that Josh Stone, when he knew he  
9 was wanted by federal authorities, went to, and where he  
10 kept law enforcement at bay since the day he knew he was  
11 wanted until just the other day where he had that  
12 standoff with law enforcement.

13 On December 12th, 2009, David Stone  
14 married Tina Stone, wearing full camo, wearing their  
15 Hutaree uniforms and bringing their weapons with them.

16 Present at that were Defendant Number One;  
17 Defendant Number Two, David Stone, Jr.; Defendant Number  
18 Three, Josh Stone; Defendant Number Four, Tina Stone;  
19 Defendant Number Five, Josh Clough; and Defendant Number  
20 Six, Michael Meeks.

21 It was at this particular event that  
22 Michael Meeks handed over a document which listed various  
23 federal judges, elected officials, business leaders and  
24 educational leaders.

25 And at that point, Josh Clough indicated

*U.S.A. v. Stone, et al.*

1       that it looked like a ready-made hit list for the  
2       Hutaree.

3               The following day, on December 13th, a  
4       series of calls were placed from the Hutaree, the various  
5       members of the Hutaree, placing them on high alert and to  
6       be mobilized and go hot to rescue fellow militia members.

7               Apparently, some militia members from  
8       another organization in Indiana had gone missing. And  
9       David Stone felt it was important that all the members of  
10      the Hutaree be ready for armed conflict.

11              THE COURT:   What was the date, please?

12              MR. WATERSTREET:   Eventually --

13              THE COURT:   What was that date, please?

14              MR. WATERSTREET:   I'm sorry.   That was  
15      December 13th, one day after the wedding, Your Honor.

16              THE COURT:   Thank you.

17              MR. WATERSTREET:   Later on that day, Josh  
18      Stone contacted the undercover agent as well as other  
19      members of the Hutaree to report that the issue has been  
20      resolved and for the membership to stand down.

21              I want to move ahead to January 9th, 2010,  
22      which was another training at the Tomer road address.  
23      Present were David Stone, David Stone, Jr., Josh Stone,  
24      Josh Clough, Michael Meeks, Kristopher Sickles and Jacob  
25      Ward.

*U.S.A. v. Stone, et al.*

1           As a result of this call-out that had been  
2           made the prior month, David Stone felt that the Hutaree  
3           needed to be ready and have better communication, and  
4           then ended up placing Tina Stone in charge of the  
5           communications of the Hutaree, to list -- to make up a  
6           list, to make sure they had a current list of the members  
7           of the Hutaree and to be able to alert members of  
8           necessary information such as red alerts.

9           At this training, David Stone indicated  
10          that in the next few months they had to gear up for a  
11          real operation in April. And then he began to outline  
12          the April plan. David Stone told the Hutaree members  
13          present that in the next months of training that they  
14          were going to engage in, they were going to gear up for a  
15          live training in April.

16          In April it was Stone's plan to insert a  
17          team into a hostile area using a van. And he referred to  
18          this as mobility training. The goal of the Hutaree team  
19          was to be mobile and undetected. And David Stone went on  
20          to say how he wanted anybody who happened to come upon  
21          them to be dealt with.

22          He explained that he wanted every member  
23          of the Hutaree to handle this as a hostile situation.  
24          And he said that if anybody happened upon them and they  
25          did not submit to the demands of the Hutaree, they would

*U.S.A. v. Stone, et al.*

1 be put on the ground either by bullet or by knife.

2 He even went as far as instructing the  
3 Hutaree members to make sure they wipe down all the  
4 bullets and casings before they went into the field to  
5 make sure that no fingerprints were left behind and that  
6 in the event there was a killing, they would -- they need  
7 not hang around, to simply make the communication call  
8 and they would be picked up.

9 Later, as part of the training for this  
10 event, the groups were broken up into their two different  
11 squads; Josh Stone in charge of one squad, David Stone in  
12 charge of the other. During the conversations with Josh  
13 Stone, during his -- with his patrol group, he repeated  
14 his father's instructions.

15 And then, when asked who the intended  
16 victim would be, Josh Stone stated he didn't know who the  
17 targets were and he didn't care. He told the group that  
18 they could kill people with guns or knives and he didn't  
19 care about either. He just said that they all had jobs  
20 to do and "welcome to the business of killing." Two of  
21 the members that were part of that group were Kristopher  
22 Sickles and Jacob Ward.

23 Later that day, Josh Stone took the  
24 undercover agent into his bedroom at the Tomer Road  
25 address, and to display his AR-15 that he had mounted a

*U.S.A. v. Stone, et al.*

1 .22 rifle to the bottom of it, and he indicated that he  
2 also showed the agent two AR-15s that had -- he had  
3 installed a three-position selector switch, indicating  
4 that it was his intent -- and he indicated that his  
5 intent was to try to make the weapons fully automatic.

6 Also during this discussion, Kristopher  
7 Sickles spoke to Josh Stone about his understanding of  
8 how to make C4 explosives. And he went on to explain,  
9 albeit incorrectly, how to make C4. He did go on to  
10 explain how to make a very volatile explosive.

11 Kristopher Sickles also indicated that he  
12 would like to have an explosive detonated outside the  
13 Huron Police Department in Ohio. And then he went on to  
14 explain that he had recently been involved in an incident  
15 where he used his .357 caliber handgun to kill his cat to  
16 get some practice for killing, and stating, "I did it to  
17 see if I could do it, to see if I could kill something  
18 that I had a feeling for."

19 On January 14th, 2010, David Stone and  
20 Tina Stone met the undercover agent, and during this  
21 meeting, Stone told the undercover agent that he wanted  
22 the undercover agent to build several IEDs with EFPs, the  
23 explosively formed projectiles.

24 And if I may just -- and that he said he  
25 would e-mail the undercover the schematics for exactly

*U.S.A. v. Stone, et al.*

1       how he wanted them built, at which time the undercover  
2       showed David Stone and Tina Stone some inert pipe bombs  
3       which he led them to believe were fully functional.

4               On January 17th, 2010, another alert went  
5       out. And shortly after this alert was canceled, David  
6       Stone indicated that he needed to have a summit meeting  
7       from the various militias around the United States in  
8       order to clarify the procedure for allied militia groups  
9       to be called out for the assistance of one another. And  
10      he understood that some of the trusted members of his  
11      group would be part of that summit.

12             On January 20th, 2010, the undercover  
13      agent received an e-mail from David Stone with two files  
14      attached. The first file was a schematic of an EFP that  
15      was captioned under it "schematic entitled figure one  
16      formation of an EFP warhead," and number two, the second  
17      attachment was a color picture of a concave copper disk  
18      laid atop a can.

19             And I submit those, Government's Proposed  
20      Exhibits Number Two and Three, Your Honor. And if the  
21      Court wishes, this is available on Wikipedia under EFP.  
22      Apparently Mr. Stone went on line to provide these  
23      diagrams to the undercover agent.

24             On January 25th, 2010, in preparation for  
25      this upcoming summit, a reply was made to the



*U.S.A. v. Stone, et al.*

1 undercover's request about the devices that Stone wanted  
2 for the Kentucky trip, because now having been told that  
3 he wanted EFPs, the undercover agent wanted to make sure  
4 that he made the right kind of explosives after  
5 previously showing the pipe bombs to David Stone.

6 David Stone indicated that -- that he  
7 wanted the explosives to be anti-personnel, and figured  
8 that, "If we have to do anything, we'll be on the run  
9 anyway," so, in essence, they would not be able to plant  
10 the EFPs, explosives, but needed anti-personnel  
11 explosives for this trip to Kentucky.

12 On February 6th, 2010 -- let me back up a  
13 little, Your Honor.

14 On January 14th, 2010, when Tina Stone and  
15 David Stone met with the undercover agent and they talked  
16 about the shape charges and that David Stone would send  
17 the schematics on how he wanted it built, during part of  
18 that discussion, Tina Stone complained about Josh Stone  
19 not getting a job, and complaining that Josh Stone  
20 indicated that he couldn't have a job because he was  
21 getting ready for war, at which time she said she was  
22 getting ready for war, but she still had a job.

23 On the -- February 6th, 2010, which I'll  
24 refer to as the Kentucky trip, present were David Stone,  
25 Josh Stone, Tina Stone, Josh Clough, Michael Meeks and

*U.S.A. v. Stone, et al.*

1 Thomas Piatek. It was decided that Tina Stone would stay  
2 behind and monitor the communications during this trip of  
3 the Hutaree down to Kentucky to meet with the other  
4 militia.

5 And it was decided that the -- continual  
6 check-in approximately every hour to make sure that  
7 things were going as planned, and that instructions were  
8 given to Tina Stone that if there was a red alert, Tina  
9 Stone was to clear out the entire front room of the home  
10 and flee.

11 During the execution of the search  
12 warrant, Your Honor -- I'm going to move ahead in time.

13 On March 29th, 2010, more than 300 pieces  
14 of evidence were seized from that location. And in the  
15 front room were various firearms, explosive materials,  
16 bomb components and shrapnel.

17 THE COURT: What was the date?

18 MR. WATERSTREET: The date of the search,  
19 Your Honor?

20 THE COURT: Yes.

21 MR. WATERSTREET: That was March 29th --  
22 excuse me, 27th? Twenty-seventh and twenty-eighth. I'm  
23 sorry, Your Honor.

24 Prior to leaving for this trip to  
25 Kentucky, many of the members met at the Stone residence

*U.S.A. v. Stone, et al.*

1 on Tomer Road, and there were various discussions taking  
2 place among Tina Stone and the other members discussing  
3 obtaining the various parts for the IEDs that the  
4 undercover agent was going to build. All the members who  
5 were taking this trip brought their various firearms,  
6 handguns and long rifles. I don't know if the Court  
7 recalls, but on February 6th, 2010 it was a rather bad  
8 winter day and the parties made it all the way down near  
9 Indianapolis, Indiana before they had to turn around and  
10 come back.

11 One of the plans of David Stone was to  
12 read a speech he had written with the help of Josh Stone  
13 to the members of the other militia. And on the trip  
14 back, David Stone read that speech to the people who were  
15 traveling on this trip to Kentucky. And I have an  
16 audio-clip which I would like to play. I have also  
17 handed out copies of the transcript for the parties to  
18 follow.

19 Does the Court have a copy of that, by  
20 chance?

21 THE COURT: I do not.

22 This recording would be Exhibit 5?

23 MR. WATERSTREET: Yes, Your Honor. And  
24 you will start on page four.

25 And I need to set the stage a little bit.

*U.S.A. v. Stone, et al.*

1       These various people were riding in the van, with David  
2       Stone being in the front passenger seat. And the clip  
3       will start off with David Stone talking about his belief  
4       that as -- when the New World Order comes, they would  
5       start a police state, and that his belief that police  
6       officers, the Brotherhood, would fight right along some  
7       Chinese trooper -- some Chinese trooper who happened to  
8       come in to oppose the United States.

9               And just give me a moment, Your Honor. I  
10       want to make sure I can get this thing to work.

11               (Brief pause in proceedings)

12               THE COURT: You're offering Five at this  
13       time?

14               MR. WATERSTREET: Yes, Your Honor.

15               THE COURT: Are there objections?

16               MR. SWOR: Yes, Your Honor.

17               I mean, this is just some -- so far we've  
18       heard this free-flowing narrative with no reference to  
19       any testimony that we can cross.

20               We're seeing him go from point (a) to  
21       point (c) to point (b) to point (f). And it's just  
22       become a narrative. This is not a hearing or this is not  
23       being conducted as a hearing. There is nothing being  
24       offered to the Court.

25               We were told that this was in the nature

*U.S.A. v. Stone, et al.*

1 of an opening statement in response to Mr. Roberts'  
2 objection. Now we're going to have an opening statement.  
3 If it is an opening statement, then this is the wrong  
4 time for evidence. And if it's not an opening statement,  
5 then where's the beef?

6 THE COURT: Mr. Waterstreet?

7 MR. WATERSTREET: Your Honor, as I  
8 indicated earlier, that the government intended to  
9 proceed by way of proffer and for the Court to give the  
10 evidence whatever weight it feels is appropriate.

11 And I don't think I've suggested anything  
12 other than that.

13 THE COURT: Can you at least indicate what  
14 the source of the tape is, or what it is?

15 MR. WATERSTREET: I can do that, Your  
16 Honor.

17 Present during that trip was the  
18 undercover agent. And he was able to record this  
19 statement of David Stone and some of the other members  
20 that were in the vehicle.

21 MR. SWOR: The point is, Your Honor, this  
22 is evidence of what? There's no foundation.

23 Assuming for the sake of argument that it  
24 is what it appears to be or what the government says it  
25 is, all they're saying is my client has an opinion and

*U.S.A. v. Stone, et al.*

1 knows how to use his mouth. It doesn't direct this  
2 towards any crime charged or any question of  
3 dangerousness or risk of flight.

4 It's just a grandiose talking.

5 THE COURT: Well, absent hearing the tape,  
6 I would not be able to make a determination, but a  
7 relevant consideration for a bond decision are questions  
8 of history and characteristics of a defendant. To the  
9 extent that his speech reflects his characteristics, I  
10 believe that it is relevant.

11 And I will overrule the objection and  
12 receive the exhibit.

13 MR. WATERSTREET: Thank you, Your Honor.

14 MR. THOMAS: Judge?

15 THE COURT: Sure.

16 MR. THOMAS: This procedure and the way  
17 that we're proceeding, I've only seen it done once before  
18 in this district. And it may have been done before that  
19 I have not seen, but it's a highly unusual procedure.

20 And that is, that the prosecution is  
21 moving by way of a proffer, where even though the rules  
22 of evidence are relaxed, we would at least have the  
23 ability to have, you know, written documentation upon  
24 which an agent is relying, the ability to cross-examine  
25 the agent as it relates to the issues that are before

*U.S.A. v. Stone, et al.*

1       you, which is risk of flight and danger to the community.

2               I knew that at one time this was done.

3       But I think that the way that we're proceeding and the  
4       length of the proceeding may be for nothing if it is  
5       decided that you're not going to allow them to proceed by  
6       way of proffer.

7               And since we have the objections and  
8       they've been overruled, and I know that -- I don't want  
9       to belay it any longer, but, Judge, I think that this is  
10      a critical phase for us and that we should be able to  
11      proceed other than by way of proffer.

12              And I'm wondering if you will let us brief  
13      the issue relating to proffer, since it looks like we  
14      might not get done today, and it looks like if we don't  
15      get done, there's not going to be any bonds that are  
16      going to be consented to by the government.

17              I think we should move carefully, because  
18      this looks like it is going to be an extended case.  
19      We're talking about issues of free speech versus evidence  
20      of somebody's characteristics.

21              We don't have anybody to cross-examine  
22      them, and we don't have the written material that would  
23      support what it is that Mr. Waterstreet is essentially,  
24      and with all due respect, testifying.

25              So I think that this is not an issue that

*U.S.A. v. Stone, et al.*

1 we should take lightly and I think we should brief it.  
2 And I think that we should not proceed any further.

3 THE COURT: It is unlikely that I would  
4 make a determination on all, if any, of the defendants  
5 today.

6 I will receive the exhibit and we will  
7 proceed today. If we suspend prior to the conclusion of  
8 all the presentations, I will afford counsel an  
9 opportunity to brief the issue and to attack the proffer.

10 You may proceed.

11 MR. WATERSTREET: Thank you, Your Honor.

12 (Whereupon Government's Exhibit

13 Number One was played for the Court)

14 MR. WATERSTREET: Your Honor, if I just  
15 may direct the Court to page five, when he's talking  
16 about the elitist New World Order,

17 "They are few in number, we are many.

18 Every day we watch ever so close for  
19 the evil blue helmets to appear on  
20 our streets. But as long as there  
21 are Interpol law enforcement  
22 mercenaries called the Brotherhood  
23 working for the New World Order and  
24 is doing such a great job, we don't  
25 need to watch for these new foreign



*U.S.A. v. Stone, et al.*

1                   armies to come to our shores. They  
2                   are already here."

3       A little bit later he refers to as,

4                   "A foreign army controlling the  
5                   streets and highways. I submit to  
6                   you it's law enforcement that patrols  
7                   the streets and highways."

8       A little bit later in their trip back from Indiana, when  
9       they were nearing Hudson, Michigan, David Stone noticed a  
10      vehicle on the side of the road with a police car. And  
11      he indicated on page six,

12                   "Oh, look, are we making sure that --  
13                   oh, my God, you better check their  
14                   IDs. This Hudson cop is such a dick.  
15                   Every time somebody is out there  
16                   changing their tire or whatever, he  
17                   pulls up and he's got to have your  
18                   ID. He's got to run you through."

19      Thomas Piatek,

20                   "Really?"

21                   "Yeah. Just because you have a flat,  
22                   yeah. Nice guy. He's a jerk. He's  
23                   a --"

24      David Stone indicates,

25                   "He's a prick."

*U.S.A. v. Stone, et al.*

1 And then Josh Stone,

2 "That's Hudson police for you,  
3 though."

4 Then David Stone turns and says,

5 "We're gonna -- we're gonna pop him.  
6 Guaranteed."

7 Then it was asked,

8 "Well, do you know this -- "  
9 basically,

10 "Do you know his name? Do you know  
11 this police officer's name?"

12 "It's not hard. There's only like  
13 three cops in Hudson."

14 "Oh, yeah?"

15 David Stone then says,

16 "We're gonna pop every one of them."

17 "There you go."

18 "Hey, you think you got him?"

19 "Yeah, why?"

20 "They're all dead."

21 After this speech of planning potentially to kill the  
22 Hudson Police Officers, after the speech of planning to  
23 go to an operation in April in which an opposing force  
24 may wander upon them, they had more training.

25 And who returned for that training? David

*U.S.A. v. Stone, et al.*

1 Stone, David Stone, Jr., Josh Stone, Josh Clough, Michael  
2 Meeks, Kris Sickles, Jacob Ward and others.

3 They engaged in their live fire training  
4 and patrol training. And then there came a point in time  
5 that they started discussing the fact that the militia  
6 member down in Oklahoma had recently committed suicide.

7 And David Stone opined that, "If you're  
8 going to commit suicide, you might as well try to take  
9 some cops with you."

10 At which time, both Michael Meeks and  
11 Kristopher Sickles indicated that they wanted to die  
12 suicide by cop. Michael Meeks wanted to die by what  
13 he -- the term he used was "copicide."

14 Move ahead to March 13th, 2010, which was  
15 the wedding of Josh Stone to his fiancée. During this  
16 meeting, the undercover agent attended and they talked  
17 about -- "they" being David Stone -- let me see.

18 The people who were present were David  
19 Stone, David Stone, Jr., Tina Stone, Josh Clough, Michael  
20 Meeks and others. And the undercover engaged in several  
21 conversations with the members of the Hutaree. And David  
22 Stone was concerned about the EFPs that Stone wanted to  
23 have built.

24 Apparently there had been some  
25 miscommunication between Josh Stone and David Stone about

*U.S.A. v. Stone, et al.*

1 getting the anticipated materials for the EFP. However,  
2 David Stone provided the undercover agent a document  
3 which included a step-by-step direction concerning the  
4 manufacturing of the EFP, as well as what materials were  
5 needed and the anticipated performance capabilities of  
6 that EFP.

7 And during that conversation David Stone  
8 tasked Michael Meeks to obtain some metal that would be  
9 used to create the EFP. And David Stone ordered two EFPs  
10 as soon as possible and have some others available in the  
11 future.

12 On March 18th, 2010, David Stone, Josh  
13 Stone, and Tina Stone and others met at David Stone's  
14 residence on Tomer with the undercover agent. David  
15 Stone indicated that they had been able to, in fact,  
16 obtain materials for the explosive devices.

17 Josh Stone and another Hutaree member had  
18 been able to get those materials and that they indicated  
19 that they would continue to get those materials.

20 And at that point in time, one of the  
21 materials that were handed over was a street sign. And  
22 if the Court will recall, sometime back in August of  
23 2009, David Stone said that he would obtain street signs  
24 or road signs that could be cut into disks for EFPs.

25 At this point in time they handed the

*U.S.A. v. Stone, et al.*

1 agent a road sign that Josh Stone and another member of  
2 the Hutaree had been able to obtain. And at this point  
3 in time, the undercover agent stopped David Stone and  
4 explained to him, "You understand what's going to happen  
5 if a vehicle goes over this EFP and it's detonated, it's  
6 going to kill every occupant inside that vehicle."

7 David Stone indicated he understood that  
8 and he was okay with that. He even indicated that they  
9 needed to test one of the devices against a car with a  
10 blue and white -- a blue and red light on top.

11 David Stone even went as far as suggesting  
12 that perhaps the undercover agent could make him some  
13 beer can mortars. And if the Court recalls, back on  
14 August 13th, 2009, when they were talking about the  
15 funeral for the police officer and the funeral  
16 procession, there was a comment made by David Stone  
17 about,

18 "For the funeral they'll be all  
19 flocked together. They're going to  
20 be boo-hooing and crying, they'll be  
21 there from all over the nation.

22 That's when we'll need our mortars  
23 and we will just lob our shells on  
24 top."

25 So now he understands he's got the EFPs and he now is

*U.S.A. v. Stone, et al.*

1       waiting for the mortars to be built.

2               During this meeting, also it was confirmed  
3       that Tina Stone was now fully responsible for all the  
4       Hutaree communications, including the e-mails, phone  
5       calls, and she would surf the web or the internet for  
6       items of interest to the Hutaree members.

7               Josh Stone, again, also indicated he was  
8       in the process of making a weapon fully capable of being  
9       fired on automatic mode.

10              Your Honor, the United States executed  
11       several search warrants on December (sic) 27th, 2010.  
12       They were able to successfully arrest every member of the  
13       Hutaree who were indicted, except for one person, and  
14       that was Josh Stone.

15              As part of the arrest, agents were able to  
16       find items inside some of the vehicles that the members  
17       drove in, including a vehicle driven by David Stone in  
18       which they found some more road signs and some firearms.

19              As I indicated before, the only person  
20       that was not arrested was Josh Stone. And based upon the  
21       events that took place from the 27th through the 29th,  
22       Josh Stone, fulfilled the Hutaree plan.

23              When he found out that members of the  
24       Hutaree were arrested, he sent out an alert to all the  
25       other Hutaree members. He sent out a request for help

*U.S.A. v. Stone, et al.*

1 from other militias. He sought to be armed and sought  
2 weapons from various militias and other people that he  
3 knew. He headed to the rally point over in Hillsdale,  
4 where eventually he armed himself. And he, and five  
5 other people, and an infant, hid out at that rally point  
6 until March 29th when he faced the presence of an  
7 overwhelming police force and finally surrendered.

8 Now, those are the facts that the  
9 government would proffer to show that these people are a  
10 risk of -- the group as a whole is a risk of flight and a  
11 danger to the community.

12 I do have -- I'm prepared to go through  
13 each individual, one-by-one, concerning what -- the  
14 various factors the Court should consider; their  
15 character, their physical condition, mental condition,  
16 family ties, things of that nature, one by one.

17 If the Court wishes me to start on that  
18 now, I can do that.

19 THE COURT: Does counsel wish a recess  
20 before we go on?

21 MR. SWOR: Yes, Your Honor.

22 THE COURT: We will take a ten-minute  
23 recess.

24 (Court in recess at 3:13 p.m.)

25 \* \* \*

*U.S.A. v. Stone, et al.*

1 (Court in session at 3:44 p.m.)

2 DEPUTY COURT CLERK: The Court recalls  
3 case number 10-20123, United States versus David Stone,  
4 among others.

5 MR. WATERSTREET: Good afternoon, again,  
6 Your Honor. Ronald Waterstreet appearing on behalf of  
7 the United States.

8 Your Honor, one other thing. As part of  
9 that packet that I gave the Court, Government's Proposed  
10 Exhibit Number Four, I was going to just identify what  
11 that was.

12 During the execution of the search warrant  
13 in Mr. Piatek's home, those were the items that were  
14 seized from his home, the weapons, the ammunition, things  
15 of that nature.

16 THE COURT: Thank you.

17 MR. WATERSTREET: Your Honor, I believe  
18 the Court wanted us to go in order based upon defendants,  
19 starting with Mr. David Stone?

20 THE COURT: Yes.

21 MR. WATERSTREET: Your Honor, I'm looking  
22 at the pretrial services report. The address in which  
23 the defendant claims to live is the Tomer Street address,  
24 where all of the significant training of the Hutaree took  
25 place, where weapons, explosive materials were seized



*U.S.A. v. Stone, et al.*

1 during the execution of the search warrant, was where --  
2 the rally point by which the various members of the  
3 Hutaree were supposed to come together.

4 My understanding is that the information  
5 that the defendant supplied to pretrial services was  
6 confirmed by co-defendants and any attempts to contact  
7 any additional family members have been unsuccessful. So  
8 it appears as if a co-defendant is verifying what a  
9 co-defendant said.

10 It appears that he has employment, but  
11 it's only since November of 2008. He indicates that he  
12 previous worked for Performance Engineering in Adrian  
13 from July 2007 to July 2008.

14 Your Honor, the -- he indicates that he  
15 has a trailer on the home -- a trailer home with an  
16 approximate value of \$500. It's my understanding that  
17 while he may own the trailer, he does not own the  
18 property on which it sits.

19 It appears that he filed bankruptcy not  
20 that long ago. It doesn't appear as if he has a home  
21 like most people would typically have which would impede  
22 their flight.

23 And I suggest if the Court considers his  
24 character, his mental condition, his family ties and the  
25 fact that it was the members of his family that he were

*U.S.A. v. Stone, et al.*

1       -- is involved in this criminal activity with, his  
2       financial resources, his ties to this community, that  
3       along with the presumption that arises in the charges  
4       that he faces, that no condition or combination of  
5       conditions can assure his appearance or the safety of the  
6       community, that he should be detained pending the  
7       resolution of this matter.

8               THE COURT: Did you intend to summarize  
9       the evidence against Mr. Stone?

10              MR. WATERSTREET: Well --

11              THE COURT: I realize that you addressed a  
12       number of matters in your proffer. Do you have anything  
13       additional?

14              MR. WATERSTREET: Not at this time. Your  
15       Honor, the proffer -- I believe there may have been only  
16       one or two times on a date that I mentioned that did not  
17       involve David Stone, either directing, training, the --  
18       directing plans, directing the manufacturing of  
19       explosives, the demonstration of explosives.

20              I venture to say if I were to summarize  
21       his involvement, I would be here yet another hour or so  
22       going over the fact materials that I mentioned before.

23              THE COURT: And the source of your  
24       proffer?

25              MR. WATERSTREET: The source of my proffer

*U.S.A. v. Stone, et al.*

1 is based upon items seized, observations of the  
2 undercover agent, recordings of the undercover agent,  
3 statements of co-conspirators, items that are open source  
4 items open to the public, such as Hutaree videos,  
5 recorded conversations he had with Josh Clough, and those  
6 type of items, Your Honor.

7 THE COURT: Anything further?

8 Mr. Swor?

9 MR. SWOR: Your Honor -- and this cuts  
10 right to the heart of our objection and the problem that  
11 we currently face.

12 My concern is that what you've heard,  
13 everything you have heard, has been a summary as refined  
14 through the lens of the government's opinion. We have  
15 seen no facts and no evidence. We've asked the Court for  
16 an opportunity to argue the legal issue. And I think  
17 that the facts as they have been presented to the Court  
18 clarify the importance of this dispute.

19 I mean, when you asked what the source of  
20 the government's proffer was, what you were told was it's  
21 a summary. Well, we've now heard a summary of a summary  
22 through the vision of the government's advocate. There  
23 have been no facts presented to this Court. Only a  
24 summary.

25 We have had no opportunity to confront the

*U.S.A. v. Stone, et al.*

1       undercover agent, to challenge the items seized, to  
2       challenge the description of the few exhibits that are  
3       here. I dare say that the government has not -- even  
4       with the presumption, that the government has not met its  
5       burden of proof factually.

6               But to sit here and go back and forth -- I  
7       would like to reserve, until we present our written  
8       argument to the Court about this procedure, and at that  
9       point if the Court wants, I can address -- I mean, I  
10      could address it now, but it will be kind of willy-nilly,  
11      and I think that the Court deserves and Mr. Stone  
12      deserves an organized, coherent defense and presentation.

13             So I would renew our objection to the  
14      procedure --

15             THE COURT: There's no need to renew the  
16      objection. The objection is made. It is a matter of  
17      record.

18             MR. SWOR: Okay. And I would ask the  
19      Court to defer our response, allow us to present our  
20      written argument and then proceed from there.

21             THE COURT: Do you have evidence or  
22      proffer?

23             MR. SWOR: No, sir.

24             THE COURT: You have nothing --

25             MR. SWOR: At this point I do not. I

*U.S.A. v. Stone, et al.*

1 mean, the -- because to some extent what we're going to  
2 do is -- we can't even challenge what the government has  
3 claimed.

4 I may have a proffer at future -- but I  
5 think that --

6 THE COURT: Well, it was represented  
7 earlier that you were prepared to proceed on behalf of  
8 Mr. Stone on the issue of bail.

9 MR. SWOR: I am.

10 THE COURT: If you have information,  
11 evidence or proffer to support his request for bail, you  
12 should present it. I understand the objection and I  
13 understand that you will brief the issue.

14 MR. SWOR: Then I will proceed. I will  
15 proceed. Okay.

16 First of all, pretrial services has found  
17 without any question that Mr. Stone is not a risk of  
18 flight. The government claims that because of the  
19 presumption that he is a risk of flight.

20 Well, the presumption does not shift the  
21 burden of proof. The government has the burden of proof.  
22 And the evidence -- or at least the summary of the facts  
23 put before the Court by pretrial services clearly  
24 establish that Mr. Stone is not a risk of flight.

25 He has no capital, he has no resources, he

*U.S.A. v. Stone, et al.*

1 has no connection with any family or friends outside of  
2 the Eastern District of Michigan.

3 And the irony I heard a minute ago was  
4 that the government arrested both Mr. Stone and his wife.  
5 This has been such a widely publicized thing that  
6 everybody down in that area is intimidated. Nobody is  
7 answering their phones.

8 And so the government is saying, "Well,  
9 okay, because we've scared everybody into not answering  
10 their phones, you should somehow interpret that as  
11 evidence against Mr. Stone, and at the same time even  
12 though evidence has been given by Mrs. Stone that  
13 verifies his information, you shouldn't regard that  
14 because she's a co-defendant. Not because it's not  
15 trustworthy, not because it's not logical, not because  
16 it's not truthful, but simply because she's a  
17 co-defendant and no one else could be contacted."

18 So I think the Court should reject out of  
19 hand the government's claim that he is a risk of flight.  
20 As far as the danger issue, I think it is interesting to  
21 note that pretrial services does not suggest that Mr.  
22 Stone may pose or does pose a danger to the community.  
23 They say he may pose it. And it's based solely upon the  
24 allegations.

25 It is not based upon any fact. Mr. Stone

*U.S.A. v. Stone, et al.*

1 has no criminal history. He has no assaultive history.  
2 What we heard today was that Mr. Stone talks a lot and  
3 that Mr. Stone is very angry, and that Mr. Stone thinks  
4 that there are a lot of things politically wrong.

5 The tape that they've played, Mr. Stone  
6 was talking about defending the United States against  
7 foreigners or defending our home against foreigners.  
8 There's nothing in that tape that says he was looking to  
9 make war on the United States government.

10 We're told about all of these supplies and  
11 equipment that were somehow seized from the Tomer house,  
12 but nothing was offered to the Court; only the  
13 government's interpretation.

14 The two exhibits that were presented to  
15 the Court -- I think it's Exhibit Two and Exhibit Three,  
16 are not diagrams or photographs taken by Mr. Stone, but  
17 rather pages printed out of the internet.

18 There was nothing done of any violent or  
19 dangerous nature by Mr. Stone other than he talks. And  
20 as Mr. Thomas alluded to, there is still a First  
21 Amendment and a right of free speech.

22 You know, Mr. Stone didn't go around  
23 throwing bricks through congressmen's houses or  
24 policemen's houses or anyone else. He talked. He  
25 trained. Okay, he trained. He got involved and trained.

*U.S.A. v. Stone, et al.*

1       So what? He didn't do anything with that training.

2               The recitation that the Court heard was  
3       that over months, over a series of months when the  
4       government had an undercover agent in this group of  
5       people, they regularly met and talked. And that is it.

6               I would proffer to the Court that where  
7       the issue -- were evidence presented where the issue of  
8       explosives, and IEDs and devices are -- occurred, if the  
9       Court heard the actual statements, the actual testimony,  
10      the Court would hear that most of that came from the  
11      government agent, not from the defendants.

12              The defendants did not create any  
13      explosive, did not create any devices, that those devices  
14      were created by the government undercover agent. That's  
15      our proffer.

16              So that there are a combination of  
17      circumstances. First of all, I think that the likelihood  
18      of flight has clearly been rebutted and that the pretrial  
19      services suggestion that he is not a risk of flight  
20      should be adopted.

21              And second of all, I think that the  
22      evidence presented here or the proffer summarized here,  
23      does not establish any personal danger from Mr. Stone  
24      being free. There is no risk to the public, in general,  
25      and there is no risk to any person.



*U.S.A. v. Stone, et al.*

1                   Certainly, suggesting that something  
2                   should happen to a police officer that he clearly didn't  
3                   like is not evidence of any immediate risk. I mean, what  
4                   we've heard is that he talks a lot. End of story.

5                   THE COURT: Thank you.

6                   MR. SWOR: He should be released on some  
7                   kind of conditional bond.

8                   THE COURT: Do you have rebuttal, Mr.  
9                   Waterstreet?

10                  MR. WATERSTREET: Your Honor, if I may,  
11                  there's just two areas that I would like to -- three  
12                  areas that I would like to touch upon.

13                  It's my understanding according to  
14                  pretrial services, he is suggesting moving back to the  
15                  Tomer Road address. It's the government's understanding  
16                  that some fellow members of the Hutaree have since moved  
17                  into that location. These were the same people who were  
18                  helping Josh Stone, Jr. while he was avoiding arrest by  
19                  the FBI.

20                  It's clear through the government's  
21                  recitation that Mr. Stone believes in the survivalist  
22                  mentality by the fact of hoarding food, medical supplies,  
23                  ammunition, things of that nature. It's that type of  
24                  lifestyle that does not lend to somebody who is  
25                  willingly -- willing to turn themselves in.

*U.S.A. v. Stone, et al.*

1                   And as for the indication that the  
2                   government has scared off anybody from saying any good  
3                   words about Mr. Stone, I have no indication that that has  
4                   been done or that was the intent of the government, but  
5                   just remind the Court that the whole reason the Kentucky  
6                   trip was taking place was that Mr. Stone was headed down  
7                   to have a summit of like-minded individuals so that he  
8                   could give them his speech on his belief of the world and  
9                   how law enforcement were the -- basically the foot  
10                  soldiers of the New World Order. So obviously there may  
11                  be other like-minded people who are willing to harbor him  
12                  in the event he does get released.

13                   Thank you, Your Honor.

14                   THE COURT: Thank you.

15                   MR. SWOR: So we're told that other people  
16                   are a problem. We're told that Josh is a problem. But  
17                   we're not told anything about Mr. David Stone.

18                   He was employed. He went to work  
19                   regularly. Yeah, he didn't make -- he didn't make a  
20                   great deal of money and I think that works in his favor,  
21                   because he certainly didn't make enough money to go  
22                   running away.

23                   The van -- remember, this Kentucky trip  
24                   was a field trip of sorts. His car couldn't reach  
25                   Kentucky and they went in a van as a group. That's still

*U.S.A. v. Stone, et al.*

1 legal as far as I know. Having opinions and traveling as  
2 a group is still legal.

3 And when the weather was bad, they came  
4 home. It wasn't like they were somehow motivated by some  
5 overarching commitment that no matter what the weather  
6 is, we're going to cross the Delaware and take the  
7 British at Monmouth.

8 His character has not been successfully  
9 attacked. The government made a comment about his mental  
10 condition. There's no suggestion that there's anything  
11 wrong with his mental condition. And if the Court wants  
12 to order him to reside some other place than Tomer Road  
13 -- by the way, that place is empty. There is nobody  
14 there. We can do that.

15 THE COURT: Thank you.

16 Moving on to defendant number two, David  
17 Brian Stone, Jr.

18 Mr. Waterstreet.

19 MR. WATERSTREET: Your Honor, I've handed  
20 out -- there's bullet points, to counsel, as to why the  
21 government believes, in addition to the presumption, that  
22 there's a risk of flight and there's a danger to the  
23 community.

24 It's the government's understanding, and I  
25 believe it is borne out by the pretrial services report,

*U.S.A. v. Stone, et al.*

1       that while Mr. David Stone is recently employed, he has  
2       just recently moved to his address on South Main in  
3       Adrian, as a matter of fact, just moved there within the  
4       last week or two. And he moved into rental property.

5               Therefore, again, he doesn't have those  
6       financial binds that keep most people to stay home. He  
7       owns no real property. His prior addresses were living  
8       with David Stone at the Tomer address and his  
9       girlfriend's parents.

10              It's our understanding he's close with a  
11      brother who lives out of state who has severed his ties  
12      to this community. He was present for virtually all  
13      Hutaree training events. He served as the opposition  
14      forces for the training. He provided explosives training  
15      and demonstration. He showed his --

16              THE COURT: Are you reading from the  
17      bullet points?

18              MR. WATERSTREET: Yes, Your Honor.

19              THE COURT: Do you have a copy?

20              MR. WATERSTREET: Yes, I do.

21              THE COURT: Thank you.

22              MR. WATERSTREET: He set ambushes and  
23      demonstrated his proficiency and ability to set those  
24      ambushes, demonstrated explosives and firearms  
25      proficiency. And stored his firearms at the primary

*U.S.A. v. Stone, et al.*

1 Hutaree rally point at the Tomer Street address.

2 He has no residential information prior to  
3 the fall of 2009. And these are some additional bullet  
4 points from reading the pretrial services report. He has  
5 a minimal employment history. And it's my understanding  
6 he declined to take a drug test.

7 Based upon the presumption and those  
8 additional factors, Your Honor, the government again  
9 relies upon the presumption and the specific information  
10 that it has provided the Court.

11 THE COURT: Thank you.

12 Mr. Helfrick?

13 MR. HELFRICK: Yes, Your Honor. I would,  
14 by way of proffer, proffer the pretrial services report.  
15 Although I would indicate that Mr. Stone, Jr. did proffer  
16 other employment to pretrial services, pretrial services  
17 declined to make the calls to those other employers.

18 Mr. Stone, Jr. is 19 years old. The only  
19 place he has ever lived is in the State of Michigan, and  
20 for the most part in the Adrian area. He has no prior  
21 arrests, no prior convictions, no prior contact with the  
22 police or the criminal justice system whatsoever.

23 He has been living with his fiancée. They  
24 have a recently-born son that is six months old. There  
25 was nothing presented during the proffer to indicate that

*U.S.A. v. Stone, et al.*

1       he owns any firearms.

2               I do recall the government indicating that  
3       this investigation started when the ATF was looking into  
4       a FFL owner in -- I guess, in the Adrian, Michigan area.

5               I haven't heard any indication from those  
6       records that Mr. David Stone, Jr. ever purchased any  
7       firearms or owns any firearms. And he does -- you know,  
8       in proffering, he has never purchased any firearms, does  
9       not own any firearms.

10              And just to back up a minute, and I know  
11      the Court knows the objection is part of the record, but  
12      what's been alluded to by Mr. Thomas and Mr. Swor's  
13      proceeding in this fashion, the last time that I've been  
14      involved in a case of this magnitude where it was  
15      conducted this way, was of course, the *Koubriti* case in  
16      2001, where the Assistant U.S. Attorney got up and  
17      proffered to the magistrate and to the judge, you know,  
18      this chronology of what supposedly had happened. And our  
19      concern was that our clients spent three or four years in  
20      jail before they were exonerated.

21              And that's part of the reason that we have  
22      such a strong feeling and objection to this sort of a  
23      proceeding, because of the abuse of this sort of  
24      procedure that's taken place in the past.

25              At any rate, David Stone, Jr. was

*U.S.A. v. Stone, et al.*

1       employed. He has been working the last five weeks. And  
2       prior to that, or actually concurrent with that, I talked  
3       with an individual down in that part of the state who, I  
4       quite frankly don't want to name at this point, because I  
5       don't want the media to descend upon his farm. But David  
6       Stone, Jr. has worked for this person off and on for the  
7       last five years, mowing lawns, baling hay, taking care of  
8       the animals and various things.

9               And this person and his wife both have  
10       nothing but good things to say about David Stone, Jr.,  
11       about what a good person he was, about how reliable he  
12       was, and as I say, nothing but good things.

13              Throughout this -- and they say he was  
14       present at most, if not all of these training events.  
15       And my recollection as Mr. Waterstreet went through the  
16       proffer when he named individuals who were present, at  
17       least half the time he was not present.

18              Moreover, during this proffer, nothing was  
19       ever proffered to this Court by anyone, the undercover  
20       officer or anyone else, that indicated that David Stone,  
21       Jr. ever held any of these beliefs, assented to any of  
22       these beliefs, agreed with them. There's no indication  
23       that he held these beliefs, agreed with them or that he  
24       was prepared to act on any of these beliefs.

25              Mr. David Stone, Jr. was arrested the

*U.S.A. v. Stone, et al.*

1 other day, and along with all -- four, five, six of these  
2 individuals, they were all arrested. They were at a  
3 memorial service in Ann Arbor at the time of their  
4 arrest.

5 And there was no altercation with Mr.  
6 David Stone, Jr. There was no attempt to flee, there  
7 were no threats made, there were no possession of any  
8 type of firearms, guns, knives or any other type of  
9 weapons.

10 When they went to his apartment and  
11 conducted a search, it's my understanding -- or I'm sure  
12 we would have heard about it. No firearms, no  
13 explosives, none of these other things that the  
14 government is talking about that they found at various  
15 other locations.

16 So there's no indication that he had  
17 possession of these items or any other type of items, not  
18 that it would be illegal for him to possess firearms  
19 since he's not a convicted felon, but the fact of the  
20 matter is, he didn't. He wasn't in possession of any of  
21 these things.

22 And it's my understanding that at the time  
23 of the arrest, not only Mr. David Stone, Jr. but everyone  
24 was cooperative with the authorities and didn't attempt  
25 to flee or do anything else.



*U.S.A. v. Stone, et al.*

1                   So, you know, given this defendant's  
2                   history and characteristics and everything else, I think  
3                   that it would be a draconian sanction to order him  
4                   detained without bond or some sort of conditions.

5                   He only has ties to this area. All of his  
6                   ties are to this area. His mother is present in court,  
7                   his fiancée is present in court, his fiancée's mother is  
8                   present in court. He has strong family support.

9                   He isn't going to go anywhere. And I'm  
10                  certain that the Court can fashion some sort of  
11                  conditions of release for him that will assure not only  
12                  his appearance, but the safety of the community.

13                  But as I say, there's nothing that's been  
14                  proffered to this Court that indicates that he advocates  
15                  any of these views that the government has set forth.  
16                  And we would ask the Court to set some sort of bond that  
17                  would allow him to remain free, pay his rent, and support  
18                  his family while this case is pending.

19                  Thank you.

20                  THE COURT: Thank you.

21                  Mr. Waterstreet, rebuttal.

22                  MR. WATERSTREET: Your Honor, if I didn't  
23                  clear -- wasn't very clear, my apologies.

24                  Hopefully, I can clear it up at this  
25                  point. When the agents executed a search warrant at Mr.

*U.S.A. v. Stone, et al.*

1 David Stone, Jr.'s home there were not found any weapons  
2 because it was the government's understanding, and the  
3 government was told, the undercover agent was told that  
4 Junior stored his weapons at the Tomer Street address,  
5 the Hutaree rally point.

6 And from there, 37 weapons -- 37 guns,  
7 including long guns and pistols were taken. The items  
8 that were found that showed his assent and his agreement  
9 to train with the Hutaree was the fact that they found  
10 his Hutaree uniform at his apartment during the execution  
11 of the search warrant.

12 And I hope that clears up any  
13 misunderstanding there may have been, Judge.

14 THE COURT: Thank you.

15 Moving forward to Defendant Three, Joshua  
16 Matthew Stone.

17 MR. WATERSTREET: Your Honor, here are  
18 those bullet points.

19 THE COURT: Thank you.

20 MR. WATERSTREET: I've also given a copy  
21 of those to defense counsel as well.

22 It's the government's understanding, and  
23 from reading the pretrial services report, Joshua Matthew  
24 Stone is unemployed. His address is the Tomer Street  
25 address in Clayton, Michigan. He has just recently been

*U.S.A. v. Stone, et al.*

1 married on March 13th, 2010.

2 He owns no real property. He resides with  
3 David Stone, Tina Stone at the Tomer property which is  
4 the primary Hutaree rally point.

5 He is the second in command with the  
6 Hutaree. He leads one of the operational squads. He  
7 has, in comments concerning upcoming training in April,  
8 expressed a callous disregard for human life, basically  
9 not caring who he faced. He didn't care who it was or  
10 who he faced.

11 He fled on March 27th, 2010 when he was  
12 known he was wanted from law enforcement. He attempted  
13 to implement the plan that Hutaree -- the red alert plan,  
14 which was to contact Hutaree members, contact other  
15 militias.

16 He sought weapons, sought cash, sought  
17 vehicles, sought to arm himself and other Hutaree members  
18 who rallied around him, demanded the release of the  
19 Hutaree and threatened war if they were not released.

20 He traveled to one of the predetermined  
21 Hutaree rally points. He distributed weapons in  
22 concealed locations throughout the rally point, so that  
23 if he had to withdraw he could withdraw and obtain  
24 weapons on the way.

25 He engaged in an armed standoff until

*U.S.A. v. Stone, et al.*

1 after eight p.m. on March 29th, 2010, when faced with  
2 overwhelming forces and an armored vehicle, he and his  
3 group finally surrendered.

4 As for employment, it's my understanding  
5 he has minimal employment and at most he was a  
6 pyrotechnic -- pyrotechnician with Colonial Fireworks in  
7 Clayton, Michigan.

8 I believe with the -- that there are no  
9 conditions or combination of conditions which will assure  
10 his appearance. He has already indicated his willingness  
11 to attempt to flee, to arm himself, and put others at  
12 danger and at risk when known -- when he knows that law  
13 enforcement is, in fact, seeking his arrest.

14 And frankly, Your Honor, I believe he's a  
15 risk of flight and a danger to the community.

16 Thank you.

17 THE COURT: Mr. Thomas.

18 MR. THOMAS: Judge, I've got a copy of the  
19 report and recommendation from pretrial services, and  
20 they have made the determination that -- that this  
21 defendant is not a risk of flight.

22 He is 21 years old. He got married just  
23 recently to his wife, Shannon, who is here in Court  
24 today. They were married on March the 13th of the --  
25 what did I say, March the 13th of 2010.

*U.S.A. v. Stone, et al.*

1                   She is on an annuity, and is certainly  
2                   capable of getting her own place, and suggests that if  
3                   the Court were willing to allow him to be released, that  
4                   he would not go back to the subject residence where he  
5                   lived with his father and his brother.

6                   He is -- he has been employed, although  
7                   one of the bullets that the government has is that he's  
8                   unemployed at that time. His employment was seasonal.

9                   And like with Mr. Helfrick, it is now  
10                  coming into the season where he would be employed, and we  
11                  believe that he could obtain meaningful employment if he  
12                  was allowed to be released.

13                  The allegations against him are very  
14                  serious and I want you to know that we take them very  
15                  seriously. But they are nothing more than just that, in  
16                  that they are allegations.

17                  And while the Bail Control Act or the --  
18                  18 U.S.C. Section 3142 has now made it -- in my view, a  
19                  constitutional right has been made conditional. I think  
20                  that the presumption of innocence still applies.

21                  And the last time that we were here, as  
22                  Mr. Helfrick and Mr. Swor have reflected, we were here on  
23                  a case that the same mood and the same tenor and the same  
24                  process was employed against at that time, five -- four  
25                  to be tried, defendants who ultimately were exonerated.

*U.S.A. v. Stone, et al.*

1                   And so the presumption in my view is still  
2                   alive and well in this country and I think that the Court  
3                   should look at that very, very carefully. This is a  
4                   21-year-old kid who has no prior criminal history. And  
5                   he has a place to go, and we'll make sure that he has a  
6                   place to go if the Court sees fit to have him have bond.

7                   There are two people here in court who I  
8                   will proffer are here in court who have given me their  
9                   name and address and who are willing to stand up and say  
10                  that they would take this man with his wife until they  
11                  are able to get a place to rent.

12                  He has prior employment that Mr.  
13                  Waterstreet has referred to, and that relates to a  
14                  pyrotechnics firm. We would agree that he would not go  
15                  to work, not be near any weapons or firearms or bullets  
16                  as is required by statute in any event since he's under  
17                  indictment, and that he would not go to work at this  
18                  place of employment even though he is licensed to do so.

19                  Serious charges. But I think that there  
20                  are conditions that you can release him, upon which we  
21                  can assure that he is not a risk of flight. And there  
22                  are reporting requirements which could assure that he's  
23                  not going to be a danger to the community. And there are  
24                  also conditions upon which he cannot be a danger to the  
25                  community.

*U.S.A. v. Stone, et al.*

1           Regular reporting, in my view, the  
2           sociological studies regarding a tether or regular  
3           reporting requirements show that even though there is  
4           nothing other than the fact that the person is at a  
5           location that can be determined, deters any further  
6           criminal conduct.

7           It seems to me that the government's got a  
8           pretty good handle on who's involved in this case and  
9           what they want to do with this case. I say let them do  
10          that, but let this young man at least go free pending  
11          what appears to be another mega-trial which is going to  
12          take a couple of years to unfold.

13          To have this gentleman in detention at  
14          this point, when not one shot was fired, when not -- when  
15          he was arrested, and I think I have to address this, his  
16          whole family and his support structure was arrested, he  
17          fled. Not because of the fact that he was a risk of  
18          flight; because he was in fear.

19          Imagine the full force of the United  
20          States government coming down on a particular location.  
21          Once it was determined where he was, he sat there, and in  
22          a -- a period of time it took to work him out of where it  
23          was that he was. The government would term that a  
24          standoff.

25          And I would say that there was no weapon

*U.S.A. v. Stone, et al.*

1        flashed, even though there were weapons there. There was  
2        no weapon shown or alluded to, even though there was  
3        weapons there, which by the way were not semi-automatic  
4        weapons. There were shotguns and a handgun.

5                It seems to me that if you take a look at  
6        it from the perspective of the person who was being  
7        sought, their fear, their subjective fear is what we  
8        should be looking at as opposed to the government's point  
9        of view, and that is, "Oh, yes. Well, you know, he is a  
10       person who has gone out and he has secreted himself  
11       because of the fact that he wanted to rally the troops."

12               Yes, he was with other people who were  
13       alleged to be involved with the Hutaree. But nobody  
14       showed any violence. When his wife and his step-mom  
15       assisted the government by making a video, and they saw  
16       that they were safe and that everyone else was safe, my  
17       client then surrendered himself.

18               Not by bringing guns out, or dropping guns  
19       all over the place or showing force in any way, raised  
20       his hands and walked out voluntarily on his own.

21               So I suggest to the Court that a bond  
22       could be issued in this case. And that he would comply  
23       with the terms of those bond -- whatever the conditions  
24       of the bond is and the standards that are set forth in  
25       the bond statute, 18 U.S.C. Section 3142, can be met.



*U.S.A. v. Stone, et al.*

1 THE COURT: Thank you.

2 Mr. Waterstreet, rebuttal.

3 MR. WATERSTREET: Your Honor, I'm not  
4 going to say -- I don't want to get into a "he said, she  
5 said" kind of a situation, but it's my understanding, and  
6 Mr. Thomas can correct me if I'm wrong, that the  
7 defendant's wife was with him in the trailer with the  
8 weapons and that there's no way that she made a taped  
9 statement to ask him to come out.

10 MR. THOMAS: Yeah, I did misspeak, Judge.  
11 It was his --

12 MR. WATERSTREET: Okay. All right.

13 MR. THOMAS: It was the step-mom.

14 THE COURT: I understand. Thank you.

15 MR. WATERSTREET: Thank you, Your Honor.

16 MR. THOMAS: So you're right.

17 MR. WATERSTREET: Thank you.

18 THE COURT: Moving forward to Defendant  
19 Number Four, Tina Mae Stone.

20 MR. WATERSTREET: Your Honor, I've handed  
21 up various bullet points that I would like to go over. I  
22 have provided this to counsel.

23 Ms. Stone was one of the more recent  
24 members to the Stone family, moved into the Tomer Street  
25 address and that is her home address, and that she was

*U.S.A. v. Stone, et al.*

1 present and involved in the training and the meetings on  
2 August 22nd, 2009, September 14th, 2009, December 12th,  
3 2009, January 9th, 2010, January 14th, 2010, January  
4 17th, 2010, January 28th, 2010, February 6th, 2010,  
5 before the departure, when she was left with the  
6 instructions to remove the items from the home which were  
7 later found to be the weapons and the explosive devices  
8 if she got a red alert, and then for herself to flee.  
9 And also she was present during the February 20th, 2010  
10 training.

11 She just recently married David Stone in  
12 December of 2009. She is currently unemployed, claims to  
13 be proficient with firearms. She has increasingly taken  
14 on the role of communications for the Hutaree and has  
15 contacted the undercover as well as other members of the  
16 Hutaree on occasion at Stone's request to pass on  
17 information or alerts.

18 She has been responsible for issuing  
19 alerts for the Hutaree members and other militia. As I  
20 mentioned before, she was tasked with removing and  
21 destroying evidence of criminal activity upon notice from  
22 David Stone and then to flee; collected and directed the  
23 collection of component parts for the IEDs; acknowledged  
24 her preparation for the war despite the fact she said, "I  
25 was working at the time. I'm still prepared for war."

*U.S.A. v. Stone, et al.*

1           The pretrial services -- again, it's one  
2           of these situations where the co-defendant is  
3           corroborating the information for pretrial services.  
4           It's the government's understanding -- I believe it's in  
5           the pretrial services report that she does not own any  
6           real property and that she has -- she does have prior  
7           criminal contact, with contempt of court and obstructing  
8           and assaulting a police officer in 2006.

9           I believe with the charges which she  
10          faces, her role in the offense, that -- with the  
11          presumption that there is no conditions or combination of  
12          conditions which will assure her appearance or the safety  
13          of the community.

14                 THE COURT: Thank you.

15                 Mr. Rataj.

16                 MR. RATAJ: Thank you, Your Honor.

17                 Well, Your Honor, as -- I'll start off my  
18          comments by pointing out that I have reviewed the  
19          presentence report and I will state for the record that  
20          according to pretrial services Ms. Stone is not a risk of  
21          not -- she is not a risk of not appearing for court.

22                 The problem that pretrial services has, as  
23          they do with the other defendants from what I can gather,  
24          is that given the serious nature of the alleged offense,  
25          that she may pose a danger to community, a total

*U.S.A. v. Stone, et al.*

1       conclusory statement that's based on absolutely nothing,  
2       Your Honor.

3               Before we get into that -- but let me just  
4       point out that, you know, pretrial services did interview  
5       her parents. Her parents do live in the area. She is a  
6       lifelong resident of the State of Michigan. She has  
7       nowhere to go, Judge.

8               And the parents, Mr. and Mrs. Kelly, have  
9       advised pretrial services that they would be willing to  
10      act as third-party custodians.

11              We'll also point out that she has three  
12      children from prior marriages; a daughter who's 25, a  
13      daughter who's 23, and a son who's 18 years old. They  
14      all live in the Adrian area.

15              Now, in terms of these -- this conclusory  
16      statement that she is somehow a danger, Judge, I haven't  
17      heard one shred of evidence here this morning -- or this  
18      afternoon, excuse me, that would suggest that my client  
19      is somehow a danger to the community.

20              This is more of a situation akin to being  
21      guilt by association. She's married to this Mr. Stone,  
22      who has -- according to the government, is this monster,  
23      and because she's married to him, she is somehow a  
24      monster too. I would suggest there's no evidence on  
25      either score.

*U.S.A. v. Stone, et al.*

1                   These meetings, Judge, that Mr. Waterstone  
2                   (sic) has pointed out, unfortunately because -- and the  
3                   big problem that we pointed out to you is, we're not able  
4                   to cross-examine this undercover officer.

5                   I mean, she's at these meetings in what  
6                   capacity? I'm not able to test this undercover officer's  
7                   testimony, other than to say, "Oh, she was there." Okay.

8                   Well, how long was she there? Did she  
9                   participate in the conversations or was she out making  
10                  coffee and serving doughnuts? We don't know any of that.

11                  They got one date down, December 12th,  
12                  2009. Well, that's their wedding date. Yeah, she was at  
13                  her wedding, you know, so that must make her a danger to  
14                  the community because other people involved in Hutaree  
15                  that were there at her wedding, that makes her a danger  
16                  to the community. I think not, Judge.

17                  Her proficiency in firearms use, I mean,  
18                  it's almost comical, Judge. And meeting with her for the  
19                  first time this morning, she told me that yeah, she knows  
20                  how -- I asked her, "Do you know how to use a gun?"

21                  She said, "Sure, I know how to use a gun.  
22                  I've been hunting squirrels and rabbits since I was a  
23                  little girl. My father taught me."

24                  Does that make her a danger to the  
25                  community because she knows how to shoot squirrels and

*U.S.A. v. Stone, et al.*

1 rabbits? I think not.

2 This notion that she's a -- she's taken on  
3 the communications role for the Hutaree, what  
4 communications has she sent out, Judge? There's been no  
5 evidence that she sent out these red alerts, "Be  
6 prepared, we're going to kill a police officer. Be  
7 prepared, we're going to start the war." There's nothing  
8 like that.

9 As a matter of fact, I was able to go on  
10 the web site. And she admits that she's responsible for  
11 the web site, and there's basically nothing on there.  
12 There's nothing that would even be close to being  
13 considered seditious behavior or seditious messages or  
14 messages that "We're going to kill police officers.  
15 We're going to kill people involved in the Brotherhood."  
16 There is absolutely nothing of the sort.

17 So having said all that, Judge, it's  
18 basically -- again, there's nothing to even suggest that  
19 Mr. Stone should not be awarded a bond with conditions.  
20 The argument is even stronger for my client. This is  
21 simply a matter of guilt by association.

22 And as Mr. Waterstreet accurately pointed  
23 out, they were just recently married in December of 2009.  
24 She didn't even meet Mr. Stone until May or June of 2009.  
25 So she is new to this. That does not make her a danger.

*U.S.A. v. Stone, et al.*

1 Her background suggests that she's not a danger.

2 I know he pointed out there's an  
3 obstruction of justice or assaulting a police officer,  
4 but that didn't result in a conviction. It was simply  
5 taken under advisement.

6 And it had to do with a situation with her  
7 daughter dating somebody that she didn't want to be  
8 dating. So no evidence that she espouses a violent  
9 overthrow of the government.

10 I'm sure that, Your Honor, in your  
11 infinite wisdom, can fashion a bond that will protect the  
12 public. I believe, Judge, that she should be awarded an  
13 unsecured bond in this case and that -- that there should  
14 be strict reporting requirements and that should satisfy  
15 the government's need to protect the public.

16 Thank you.

17 THE COURT: Thank you.

18 Mr. Waterstreet, rebuttal?

19 MR. WATERSTREET: No, Your Honor.

20 THE COURT: Moving forward to Defendant  
21 Number Five, Joshua John Clough.

22 MR. WATERSTREET: Again, I've handed up  
23 the bullet points, your Honor. The government again will  
24 rely upon the -- the presumption that there is no  
25 conditions or combination of conditions which will assure

*U.S.A. v. Stone, et al.*

1 the defendant's appearance and the safety of the  
2 community.

3 We should point out in a quick summary  
4 fashion here, Mr. Clough was present during a vast  
5 majority of these meetings; September 28th, 2008, October  
6 18th, 2008, November 8, 2008, November 15th, 2008,  
7 December 20th, 2008, February 28th, 2009, March 27th  
8 through the 28th of 2009, June 12th, 2009, June 13th,  
9 2009, July 25th, 2009, August 22nd, 2009, August 27th,  
10 2009, November 7th, 2009, December 12th, 2009, January  
11 9th, 2010, February 6th, 2010, which was the Kentucky  
12 trip, and February 20th, 2010.

13 It's my understanding from looking through  
14 the pretrial services report and it's our understanding  
15 as well that he owns no real property. He is apparently  
16 recently employed as a security guard, and more than  
17 likely as a result of these charges will become  
18 unemployed due to the nature of the charges.

19 He acknowledges a proficiency with  
20 explosives and firearms. He was a former member of  
21 another militia group. He devised the trip-wire  
22 detonation system.

23 He's the -- was the videographer and web  
24 site manager for the Hutaree. He created the training  
25 and recruitment videos. He is one of the trusted inner



*U.S.A. v. Stone, et al.*

1 circle of the Hutaree. He was one of the trusted  
2 individuals who appeared for the EFP demonstration by the  
3 undercover agent. He was the one who posted on the web  
4 site that ATF agents were at the local FFL, "And we have  
5 and will return fire. The question is, will you?"

6 He -- during the training on December  
7 20th, 2008, after discussions with killing police  
8 officers, he indicated "This would not be a pretty day  
9 for any officers to come down here."

10 He was the one who also referred to the  
11 list of elected officials, federal judges and other  
12 leaders, that it is a ready-made hit list of government  
13 officials.

14 He was traveling down to the Kentucky  
15 summit and was responsible for his -- with his computer,  
16 to look for evasive routes in the event they had to  
17 escape or avoid law enforcement.

18 In some of his postings and comments on  
19 Liberty Tree Radio web blog, he has indicated that he has  
20 used mobile GPS to mark fighting positions. He has  
21 indicated that he -- through statements, that he has his  
22 own explosives or used explosives.

23 And I believe pretrial services has  
24 indicated he is a risk of flight because he has created  
25 various You-Tube videos on how to survive if you were to

*U.S.A. v. Stone, et al.*

1 lay low to avoid the enemy. Although there is a  
2 disclaimer on the video that notes it's a -- the scenario  
3 is fictitious, it shows he possesses the skills to  
4 survive on the run if the situation should arise.

5 And I believe those are the bullet points,  
6 Your Honor, as to Mr. Josh Clough.

7 THE COURT: Mr. Roberts.

8 MR. ROBERTS: Thank you very much, Your  
9 Honor.

10 First of all, I would -- in terms of your  
11 consideration of this last series of remarks, I would  
12 caution Your Honor most respectfully that these bullet  
13 points that have been referred to here, a lot of these  
14 are conclusions with what I would suggest at this point  
15 no demonstrated evidential underpinning. This summary is  
16 exactly like an opening statement and I suggest Your  
17 Honor should treat it and consider it as such.

18 With regard to the -- my part of a  
19 proffer, I would suggest the strongest items are items  
20 that, unfortunately, in my situation, I usually don't  
21 encounter clients like this. When we get into federal  
22 courts, most of my clients seem to have built up at least  
23 a limited history of contact with law enforcement.

24 And in this case, we have an individual  
25 who is 28 years old, and I would proffer the pretrial

*U.S.A. v. Stone, et al.*

1 services report to Your Honor for your consideration.  
2 I'm reviewing this as they were talking.

3 He's 28 years old. He has been a lifelong  
4 resident of this state. He has no prior arrests even  
5 reported. No convictions as a youth, a juvenile or an  
6 adult. He's lived with his parents and was living with  
7 his parents -- and his parents, by the way, are not, as I  
8 understand it -- have not been suggested to have been  
9 involved in any way, shape or form.

10 So this is a 28-year-old man who is living  
11 at home with mom and dad. And I don't want to put out  
12 that address. It's not necessary for the recitation.  
13 But it's not associated with the other addresses that we  
14 have heard all this representation about today.

15 This individual then is the kind of person  
16 who would normally present as one worthy of consideration  
17 of a combination of conditions, not confinement. He has  
18 no history of bench warrants or bond forfeitures,  
19 obviously, if he's never been charged with any. No  
20 capiases is the fancy term that's used in the City of  
21 Detroit courts.

22 He therefore, has no history of prior  
23 failure to appear for any court appearances or any court  
24 date. There would be no -- there's no suggestion in that  
25 kind of background that would call for a conclusion that

*U.S.A. v. Stone, et al.*

1 he is a risk of flight.

2 It's true he has no major sources of  
3 capital. He had a very limited amount of bank account.  
4 He has no money to flee with. While he obviously -- it's  
5 reported that he did possess -- still possesses --  
6 doesn't have it in his possession, a passport. That's  
7 generally the kind of condition that a judge would impose  
8 in terms of a condition of bond, that that be  
9 surrendered.

10 There is not at least -- I was paying  
11 close attention, Your Honor, and I didn't hear any  
12 representation of a violent act committed by my client  
13 toward another human being.

14 He had a job. He had had the job one  
15 week. Obviously, probably will not -- will no longer  
16 have that job due to the fact that he's been arrested by  
17 the government. He's lost that job.

18 But persons in situations where --  
19 especially in our economy, where they don't have a job, a  
20 lot of people don't have jobs that want them. A lot of  
21 people don't have places to reside. The fact that he  
22 doesn't own property is a factor for you to consider, but  
23 I would suggest that it shouldn't hold much moment.

24 The beliefs that were espoused or have  
25 been attributed to one of the defendants have not been

*U.S.A. v. Stone, et al.*

1 shown to have been held or accepted or promulgated by my  
2 client, Mr. Clough.

3 There's been no manifesto that bears his  
4 signature, no alternative document suggesting another  
5 government that he aligns himself with. There is nothing  
6 that's been signed by him, no ritualistic initiation or a  
7 violent act toward another human being.

8 I would suggest that while the nature of  
9 the charges sound most heinous, considering when you --  
10 when you will, that the weapon here, that the second  
11 count or the major counts dealing with possessions, or  
12 use of, or intended use of weapons of mass destruction,  
13 we launched a war over mass destructive weapons that were  
14 never found.

15 And in this case, as I understand, and a  
16 careful reading of the documents at issue would reflect  
17 the weapon involved and labeled, I understand how the  
18 statute works, and refers you back to 921, the weapon  
19 could be, and in this case was, explosives.

20 Not biological, not chemical, not nuclear,  
21 nothing that we would normally envision when we consider  
22 weapons of mass destruction.

23 I would adopt other defense counsels'  
24 earlier remarks about the presumptions at issue here.  
25 And I would strongly suggest to Your Honor that this

*U.S.A. v. Stone, et al.*

1 individual, unblemished by a convicted record of any  
2 nature, would be easily monitored, would be willing to  
3 report as regularly as Your Honor would require, can  
4 certainly -- his ankle monitoring or ankle tethering,  
5 electronic tethering could certainly dissuade any  
6 suggestion that as soon as he's out, he's going to flee.  
7 Because there's nothing else that would suggest that.

8 And in the bullet points that the  
9 prosecution has submitted, we would suggest the following  
10 for your consideration.

11 With regard to all these bullet points,  
12 they are again, to the point that they're not theories,  
13 we would suggest you consider, and you can look yourself  
14 on the Hutaree website, the specific emboldened phrase on  
15 one of these bullet points,

16 "We have and will return fire. The  
17 question is, will you? Hutaree.com."  
18 That is at the bottom of their web page. It's at the  
19 bottom of every transmission that is put on that web  
20 page.

21 And I haven't heard anything that suggests  
22 how it is that the government is making a conclusion that  
23 my client is the one who put that particular entry on  
24 there. And that particular entry, because it's on all of  
25 their web references, does not specifically refer to the

*U.S.A. v. Stone, et al.*

1 December 8th, 2008 event.

2 The other remarks that are attributed  
3 directly to Mr. Clough,

4 "This would not be a pretty day for  
5 any officers coming down here,"  
6 again, Your Honor, that's just talking. That's all we've  
7 heard about; talking and role playing.

8 There was never even any demonstrative  
9 thing at the end of a statement like that, like "This is  
10 what I would do if they were standing right here" and  
11 launch of a bunch of rounds.

12 We don't have any references at all to my  
13 client doing anything other than making remarks. There's  
14 a bullet point having to do with this list of elected  
15 officials.

16 I think if Your Honor were able to examine  
17 that, there's probably names on there that this group  
18 would have no way of getting anywhere near, people in  
19 other countries, people that are -- that don't even live  
20 in the United States. And again, a reference of the kind  
21 that was made with regard to that particular list is  
22 nothing but a remark.

23 All of these -- and again, the last one  
24 that Clough and another defendant both claim that Clough  
25 has his own explosives, I didn't hear anything presented

*U.S.A. v. Stone, et al.*

1 by the prosecuting attorney yet that indicated they had  
2 seen Mr. Clough in possession of any -- any kind of  
3 explosives or detonating any explosives.

4 So I could say, "I know all about bombs."  
5 That doesn't mean it's true. And I am suggesting that  
6 these are the kinds of problems that we run into when a  
7 case at a detention hearing proceeds by proffer.

8 Again, this is -- I know that this is a  
9 process that is invoked occasionally. It's invoked more  
10 seriously than in other situations.

11 We haven't had one witness testify, not  
12 even a federal agent saying, "I was there and this is  
13 what I saw," let alone, "I interviewed this person and  
14 this is what they told me" or anything like that.

15 We've had an Assistant United States  
16 Attorney carefully go through his notes from all the  
17 review that he's made of whatever information has been  
18 parlayed to him second and third-hand and that is the  
19 danger of locking up Joshua Clough based upon that  
20 modicum of proof.

21 I ask Your Honor to seriously consider all  
22 of my remarks in line with the other defense attorneys'  
23 and to conclude that there is a combination of conditions  
24 that would ensure not only the safety of the public, but  
25 my client's return.



*U.S.A. v. Stone, et al.*

1 THE COURT: Thank you.

2 Mr. Waterstreet, rebuttal?

3 MR. WATERSTREET: Yes. Just two areas,  
4 Your Honor.

5 To the extent, if any, defense is  
6 suggesting, and I don't know if he was doing it directly,  
7 that the parents should be third-party custodians, I just  
8 believe there's something that should be brought to the  
9 Court's attention. I didn't bring it up, because I did  
10 not know that he would mention the parents.

11 But apparently during the execution of the  
12 search warrant, they barricaded themselves in the house  
13 on themselves and eventually the FBI were able to  
14 negotiate a peaceful resolution of that. While  
15 understanding that, of course, people, if they did not  
16 hear the initial knock, knowing that it was law  
17 enforcement, it would have been very clear that they  
18 would have been defending their home.

19 However, it did become clear shortly  
20 thereafter that it was still -- that it was, in fact, law  
21 enforcement and the barricade standoff lasted for a  
22 period of time.

23 As to the other indication that counsel  
24 alluded to was the Hutaree.com, "We have and will return  
25 fire. The question is, will you?"

*U.S.A. v. Stone, et al.*

1           Perhaps I didn't do a very good job of  
2           explaining this. But there were two different postings,  
3           Your Honor. One was from Josh Clough, signed "Azzurlin,"  
4           which is his Hutaree nickname, A-z-z-u-r-l-i-n, and that  
5           was posted on AWRM.org. It stands for a well-regulated  
6           militia.

7           And that's when he made that comment that,  
8           "The ATF were at our local FFL today and looking at  
9           paperwork specifically related to our commander." And  
10          that was on December 8th, 2008.

11          Then on a separate e-mail that was sent  
12          out from David Stone from Hutaree@yahoo.com, it was an  
13          e-mail that was entitled "Flash, flash, flash, ATF  
14          Enforcers."

15          So if there was any confusion, Your Honor,  
16          I apologize, but it is a situation where Josh Clough did,  
17          in fact, go on line, sign his Hutaree name, and indicated  
18          that people should react to this checking of paperwork at  
19          a federal firearm licensee.

20          THE COURT: Thank you.

21          Ms. Satawa has requested an adjournment.

22          Mr. Scharg, I understand you have a trial  
23          tomorrow; is that correct?

24          MR. SCHARG: I would ask the Court to  
25          proceed with Mr. Sickles today, please?

*U.S.A. v. Stone, et al.*

1 THE COURT: We'll start with Mr. -- we'll  
2 go on with Mr. Sickles.

3 MR. SCHARG: Okay. Thank you very much,  
4 Your Honor.

5 MR. WATERSTREET: As for Kristopher  
6 Sickles, Your Honor, again the presumption exists in this  
7 situation. We have a little bit different situation for  
8 Mr. Sickles. And you will also hear from Mr. Ward.

9 These individuals do not live in the  
10 Eastern District of Michigan. They live in another  
11 district. They have no ties to this district, other than  
12 for them to come for training with the Hutaree and to  
13 engage in the conduct in which they are charged. He was  
14 present for training on September 27th, 2008, August  
15 22nd, 2009, November 7th, 2009, January 9th, 2010 and  
16 February 20th, 2010.

17 He is the self-proclaimed leader of the  
18 Ohio Militia. He is a person who called for the  
19 million-man armed march on Washington. He has been  
20 discharged from the Army under other than honorable  
21 conditions, owns and possesses body armor, bullet-proof  
22 vests, a ghillie suit to blend in with the wooded  
23 environments, night-vision goggles. He has, in fact,  
24 even posted those items on his Facebook.

25 He is a CCW permit holder in Ohio. He is

*U.S.A. v. Stone, et al.*

1 an individual who is willing to travel several hours just  
2 to train with the Hutaree, rather than a more local  
3 militia.

4 During the January 9th, 2010 training when  
5 he heard Stone's plan for the April training, that's when  
6 Sickles indicated his desire to detonate an IED outside  
7 the Huron, Ohio Police Department.

8 He discussed the killing of his cat with  
9 two .357 handgun rounds, to get some practice in killing,  
10 to see what it was like. He also described how he  
11 thought C-4 explosives could be made.

12 During the February 20th, 2010 training  
13 event where they discussed murdering law enforcement  
14 officers, the Brotherhood, specifically, Sickles  
15 mentioned his desire to martyr himself by suicide by cop.

16 And during this conversation, he made it  
17 very clear that he would try to take as many police  
18 officers with him before he would die.

19 He does, in fact, have a criminal record.  
20 He was arrested on February 23, 2004 by the Huron, Ohio  
21 Police Department for a charge of disseminating matter  
22 harmful to minors. He received a misdemeanor conviction,  
23 and therefore he was still able to keep his concealed  
24 weapons permit.

25 He has a lengthy record with the Huron

*U.S.A. v. Stone, et al.*

1 Police Department involving allegations involving no less  
2 than 17 police reports.

3 And he had previously been training with  
4 another militia group, and left that militia group to  
5 join the Hutaree, because in his opinion, that other  
6 group was not doing enough.

7 I believe, Your Honor, for the reasons  
8 I've stated before, with the presumption, as well as the  
9 fact he does not have ties to this community, and it's my  
10 understanding through the pretrial services report, the  
11 defendant is unemployed.

12 The government has serious reservations  
13 whether, if released, he would show up, or if released,  
14 he would not pose a threat to the community.

15 And so, therefore, it's the government's  
16 opinion that he should be ordered detained pending the  
17 resolution of this matter.

18 THE COURT: Thank you.

19 Mr. Scharg.

20 MR. SCHARG: Thank you, Your Honor.

21 As I listened to Mr. Waterstreet earlier  
22 today talk about all the street signs, one comes to mind,  
23 is to "proceed with caution."

24 And I ask the Court to proceed with  
25 caution, based upon the fact that Mr. Waterstreet's

*U.S.A. v. Stone, et al.*

1 presentation to the Court was merely argument and not  
2 based upon fact.

3 And since my argument is going to be based  
4 upon argument and not fact, I think it should have the  
5 same and equal weight as Mr. Waterstreet's, since neither  
6 one of us have any type of witnesses or facts in evidence  
7 to back up the arguments.

8 I would like to say also that I concur  
9 with the arguments of Mr. Thomas and Mr. Swor regarding  
10 the format the Court is using in terms of the fact that  
11 it is extremely unusual and objectionable to use this  
12 format where we can not cross-examine and challenge any  
13 of the arguments made by Mr. Waterstreet.

14 I should say that I have reviewed the  
15 pretrial services report and like other -- like other  
16 counsel, first of all, I would like to argue the fact  
17 that pretrial services has opined that Mr. Sickles is not  
18 a flight risk in this case.

19 The arguments of Mr. Waterstreet to me are  
20 somewhat disingenuous in terms of the fact that he's from  
21 out of state.

22 Mr. Sickles was born and raised in  
23 Sandusky, Ohio, which I think they have that big  
24 amusement park there. And some of the argument of Mr.  
25 Waterstreet seems to blend in with that amusement park

*U.S.A. v. Stone, et al.*

1        mentality, in terms of the fact that Sandusky, Ohio, from  
2        the last time I took my kids there, was about two hours  
3        away.

4                    And Sandusky, Ohio is closer than a lot of  
5        the cities and areas in the Eastern District of Michigan.  
6        And to say that -- in fact, that he lives outside the  
7        State of Michigan, without explaining the fact that his  
8        home is closer than many areas of -- in the Eastern  
9        District of Michigan, really is -- portrays something of  
10       fiction.

11                   Mr. Sickles is 27 years told. The  
12        extensive criminal record that Mr. Waterstreet alludes to  
13        is one misdemeanor conviction, one misdemeanor conviction  
14        where he got a suspended sentence.

15                   And the other part of this extensive  
16        criminal record that he has is the 17 police reports.  
17        And I have -- really, I've heard a lot here today, but  
18        arguing that 17 police reports over a person's life is an  
19        extensive criminal history, again, I think is  
20        disingenuous, ludicrous and fictitious.

21                   Mr. Sickles lives with this wife who's  
22        here today and his two small children, a four-year-old  
23        and a seven-month-old, in Sandusky, in a trailer home  
24        that he owns, where he has lived his entire life, with a  
25        support system of parents and family members in that

*U.S.A. v. Stone, et al.*

1 far-distant area of Sandusky, Ohio.

2 Although he is unemployed, he is -- he was  
3 collecting unemployment benefits because, in fact, his  
4 job was terminated. And, in fact, if he was allowed to  
5 return to home -- return home in lieu of collecting the  
6 unemployment benefits if that is terminated, he could  
7 work part time if -- for his father-in-law who owns a  
8 local nursery; as in forestry, rather than children.

9 In terms of the arguments and allegations  
10 by the government and in terms of their talking points,  
11 and I want to stress talking, rather than evidentiary  
12 points, in terms of the number of meetings, I believe it  
13 is clear that Mr. Sickles did not attend more meetings  
14 than he did attend during this period of time.

15 He did not attend this Kentucky summit.  
16 He was not present at the explosive demonstration. And  
17 he was present at some of these trainings or training  
18 sessions.

19 And I'll address the content and substance  
20 of what was done at the training sessions in terms of the  
21 fact that there is very little and no evidentiary  
22 evidence that in fact that he did anything more than act  
23 in these training exercises that these militias all over  
24 do and which are not illegal.

25 He is the self-proclaimed leader of the



*U.S.A. v. Stone, et al.*

1 Ohio militia. That means that that proclamation and a  
2 dollar and-a-half can probably get him a cup of coffee  
3 somewhere in Sandusky.

4 Calling for a million-man march, I am not  
5 aware of any million-man march that occurred in  
6 Washington, and probably there was a one-man march. And  
7 when we talk about "armed march," it's not armed  
8 resurrection, but it's -- I believe has something to do  
9 with Second Amendment rights.

10 In terms of the discharge from the  
11 military, he was -- he was discharged under less than  
12 honorable conditions, but in fact, after he went AWOL, he  
13 did self-surrender. He owns and possesses body armor and  
14 this ghillie suit and night goggles. And I have no  
15 information that that's illegal.

16 CCW permit, I mean, that in itself is no  
17 reason to deny bond and that he's a danger to the  
18 community if he went out and got a permit so he could  
19 carry and possess weapons.

20 The fact that he travels -- that he  
21 travels several hours to go to Hutaree exercises, rather  
22 than more local militia, my argument is just as valid as  
23 Mr. Waterstreet's argument here, and in being out of  
24 state, is that this local militia was closer to him, less  
25 than two hours -- or several hours, was closer than other

*U.S.A. v. Stone, et al.*

1        militias in the State of Ohio.

2                The information regarding this martyrdom,  
3        suicide by cop, how -- you know, how do we confront this  
4        information without having a witness? It is -- I think  
5        the best way is, action speaks louder than words, is that  
6        when police or government agents arrived at his home to  
7        arrest him, contrary to the government's argument on  
8        other defendants, he surrendered without incident.

9                There were weapons in the house. There  
10       were people in the house. And there was a surrender or  
11       without incident, and he was cooperative. Contrary to  
12       someone seeking martyrdom or a martyr status or suicide  
13       by cop, the situation occurred that when the police came  
14       out to raid the house and to arrest him, he surrendered.

15               We're asking the Court to set conditions  
16       for release. His wife or family members from Sandusky  
17       can act as third-party custodians. He can be ordered  
18       under house arrest, doesn't have to leave the house, with  
19       a GPS and/or tether, to assist his wife, who works, in  
20       the care of his two young children.

21               Again, and finally, pretrial services says  
22       there is no flight risk. Agreed. We believe that  
23       there's a number of conditions that can be set by this  
24       court to assure that there's no danger to the community,  
25       to the fact that he would, during the pendency of this

*U.S.A. v. Stone, et al.*

1 case, and it could be long and protracted, that he could  
2 tend for his two minor children at the home and be there  
3 at all times and not be a danger to anyone.

4 Thank you.

5 THE COURT: Thank you.

6 Mr. Waterstreet, rebuttal as to Mr.  
7 Sickles?

8 MR. WATERSTREET: Yes, Your Honor. I will  
9 quickly.

10 Mr. Scharg is correct. Thankfully, Mr.  
11 Sickles did not follow through with his copicide plan,  
12 seeing that he was the only adult home caring for his one  
13 and four-year-old child, that he thought better of giving  
14 in to a shootout with law enforcement, despite the fact  
15 he had the wherewithal and the equipment to do so, having  
16 been arrested with 13 firearms, more than 8,000 rounds of  
17 ammunition, having a Kevlar helmet, the bullet-proof  
18 vest, camouflage clothing, various knives, tactical vest  
19 and night vision equipment.

20 I am happy that it came to a safe  
21 resolution, rather than what his plan was. That, in and  
22 of itself, because it became a safe resolution, does not  
23 mitigate the fact that he was engaged in serious criminal  
24 conduct.

25 Thank you, Your Honor.

*U.S.A. v. Stone, et al.*

1 THE COURT: Thank you.

2 With apologies to Mr. Seikaly, we are  
3 going to suspend for today.

4 The marshal is beyond the time at which  
5 prisoner handling should have occurred. My apologies.  
6 We will resume at 1:00 tomorrow.

7 I would like to see all counsel of record  
8 before you leave today.

9 (Court in recess at 5:10 p.m.)

10 \* \* \*

*U.S.A. v. Stone, et al.*

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**C E R T I F I C A T I O N**

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I certify that the foregoing is a correct transcript from the digital sound recording of the proceedings in the above-entitled matter and has been prepared by me or under my direction.

\s\Marie J. Metcalf

04/07/10

Marie J. Metcalf, CVR, CM

(Date)